

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Submit to JC (without circulating for comment)**

RUPRO Meeting: October 13, 2016

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Probate Conservatorships: Authorize Publication of Third Edition, Handbook for Conservators

Committee or other entity submitting the proposal:

Probate and Mental Health Advisory Committee

Staff contact (name, phone and e-mail): Douglas C. Miller, 818.558.4178; douglas.c.miller@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: January 29, 2016

Project description from annual agenda: #1: Complete Third Edition of the Judicial Council's Handbook for Conservators, to reflect substantial changes in conservatorship law and practice since the Second Edition was published in 2002.

If requesting July 1 or out of cycle, explain:

N/A

Additional Information: (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

Publication will be electronic only. But report includes request for grant of authority for courts to print copies for conservators desiring print copies, and to charge and keep the \$20.00 authorized by statute for printing costs.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2016

Title	Agenda Item Type
Probate Conservatorships: <i>Handbook for Conservators: 2016 Revised Edition</i>	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	October 28, 2016
Recommended by	Date of Report
Probate and Mental Health Advisory Committee	September 16, 2016
Hon. John H. Sugiyama, Chair	Contact
	Douglas C. Miller , 818-558-4178 douglas.c.miller@jud.ca.gov

Executive Summary

The Probate and Mental Health Advisory Committee recommends that the Judicial Council approve the *Handbook for Conservators: 2016 Revised Edition*, and authorize its publication by posting on the judicial branch website and production in print form by courts. This handbook updates the written information required by Probate Code section 1835 to be provided by the Judicial Council to the courts and by the courts to newly-appointed conservators.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective October 28, 2016:

1. Approve the *Handbook for Conservators: 2016 Revised Edition* as the information concerning a conservator's rights, duties, limitations, and responsibilities to be provided by the Judicial Council to courts under Probate Code section 1835;

2. Authorize electronic publication of the handbook by posting on the judicial branch website; and
3. Authorize courts to print copies of the handbook from a posted copy of the text for distribution to private conservators who desire print copies.

The complete *Handbook for Conservators: 2016 Revised Edition*, except for an Index, to be added before posting, is at pages 6-326.

Previous Council Action

Handbook

The first edition of the *Handbook for Conservators* was published in 1992. The Judicial Council authorized its publication at its meeting of May 1991. The first edition was printed and hard copies were distributed to the courts for transmission to newly-appointed conservators pursuant to Probate Code section 1835.

A second edition of the handbook was prepared in 2002, to incorporate updates needed after the passage of ten years. The book was published and distributions of hard copies to the courts began in July of 2002. At the same time, the entire text of the handbook was placed on the judicial branch website, allowing free public access to it for the first time. In 2005, a second printing of the second edition was ordered when the number of available copies was exhausted.

The second printing was exhausted by October of 2010. No funds were available at that time for a third printing, so the Judicial Council, via a memorandum dated October 13, 2010 to all superior court executive officers, authorized all superior courts to produce printed copies of the second edition of the handbook at court expense, for distribution to conservators who preferred print copies to the then freely-accessible electronic version of the book, and to recover and retain the \$20 charge authorized by section 1835 as reimbursement for their expenses.

Rule 7.1051

Rule 7.1051 of the California Rules of Court implements the provisions of Probate Code section 1834, which requires newly-appointed conservators, before they can receive their *Letters of Conservatorship*, to acknowledge receipt of a statement of duties and responsibilities of a conservator and a copy of the information required by section 1835, discussed below. The Judicial Council adopted this rule effective on January 1, 2001 and amended it one year later. The rule identifies the information required by section 1835 as the *Handbook for Conservators*.¹

Form GC-348

The *Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators* (form GC-348) is the statement of a conservator's duties and responsibilities required by section 1834 and the conservator's acknowledgement of receipt of the information required by section 1835. The form was adopted by the Judicial Council effective January 1, 1992, and was revised effective January 1, 1998, January 1, 2001, January 1, 2002, and January 1, 2011. The last revision added information about the duties of conservators to evaluate the conservatee's appropriate level of care and limits to moving the conservatee from his or her permanent residence—concepts introduced into the law by the Omnibus Conservatorship and Guardianship Reform Act of 2006.²

Probate Conservatorship Task Force

Then-Chief Justice Ronald M. George established the Judicial Council Probate Conservatorship Task Force in January of 2006. It was charged with making recommendations to the council for improvements of probate conservatorship cases, to ensure the fair and expeditious administration of justice in these matters. The task force conducted hearings throughout the state in 2006 and 2007 and made its final report to the Judicial Council on October 27, 2007, consisting of 85 recommendations. It then reported to the council on its progress in implementing these recommendations in December of 2008. Many of its preliminary recommendations were included in the Omnibus Conservatorship and Guardianship Reform Act of 2006, which took effect on July 1, 2007.

¹ The creators of the first edition of the handbook, managed by former Legal Services staff attorney Benjamin McClinton, always contemplated the book to be the information required by section 1835. The Acknowledgments include the following, on page iii:

To the California Legislature, Senator Henry J. Mello, and the conservatorship workgroup, who proposed, sponsored, and passed the legislation requiring this handbook, for their foresight and their understanding of the needs of a largely voiceless but growing segment of our community.

² Sen. Bills 1116, 1550, and 1716, and Assem. Bill 1363 (Stats. 2006, chs. 490–493). The relevant material was added by Senate Bill 1116, § 2 and placed in a new Probate Code section 2352.5.

Rationale for Recommendation

Probate Code section 1835

Section 1835 was initially enacted in 1988, but was repealed and reenacted with the entire Probate Code in 1990, effective July 1, 1991.³ The section requires superior courts to provide to all private conservators⁴ “written information concerning a conservator’s rights, duties, limitations, and responsibilities under this division.”⁵ Subdivision (b) of section 1835 contains a nonexclusive list of topics to be included in the information, and subdivision (e) requires the council to make the information available to individual courts and to periodically update the “information package” when changes in the law warrant revision.

As required by subdivision (e), the handbook once again should be updated to reflect the significant changes in the Guardianship-Conservatorship Law since publication and distribution of the second edition of the handbook fourteen years ago.

Changes in the handbook since the second edition

The most important changes in conservatorship law in California since publication of the second edition of the handbook in 2002 were contained in the Omnibus Conservatorship and Guardianship Reform Act of 2006.⁶ Changes made by that law are sprinkled throughout the 2016 revised edition of the handbook. Perhaps the most prominent impact of that law is reflected in the new material in chapter 4 concerning the duties of conservators of the person to expressly determine the level of care required by the conservatee and identify the conservatee’s *personal residence*. That determination in turn results in new requirements concerning notice to the conservatee and others close to the conservatee of an intention to sell that residence (see Prob. Code, § 2352.5; California Rules of Court, rule 7.1063; and the *Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward* (form GC-079).

One of the main reasons for the Omnibus Act was the apparent routine practice in some courts before that law went into effect of *ex parte* applications for and appointments of temporary conservators. The law now requires noticed hearings in most appointments of temporary conservators, and greater showings of the need to dispense with those hearings. These changes affected chapter 3 of the handbook. See Probate Code sections 2250–2250.8 and California Rules of Court, rule 7.1062.

Another impact of the Omnibus Act was the enactment of a provision in Probate Code section 2620 requiring the council, by January 1, 2008, to adopt a rule of court and Judicial Council forms for use in conservatorship and guardianship accountings. This change led to the council’s

³ Sen. Bill 2352 (Stats. 1988, ch. 742); Assem. Bill 759 (Stats. 1990, ch 79), § 14.

⁴ Conservators that are neither public conservators nor trust companies (see Prob. Code, § 1834(a)).

⁵ Division 4 of the Probate Code, Parts 1–4 of which are the Guardianship-Conservatorship Law (see Prob. Code, § 1400).

⁶ See footnote 2 above.

adoption or approval, effective on that date, of California Rules of Court, rule 7.575, and 48 accounting schedules, designated as GC-400-(standard account), and GC-405-(simplified account) forms, with suffixes showing the function of each form schedule in the series. Not only did the existence of these new forms necessitate revision of the discussion of accountings in chapter 5 of the handbook, but it also led to revision of that discussion in Appendix D and use of the form schedules in the sample accounting located there.

A much more recent change, the 2014 enactment of the California Conservatorship Jurisdiction Act (Prob. Code, §§ 1980–2033), operative January 1, 2016, required minor changes in the discussion of court permission to move a conservatee out of California in chapter 4 of the handbook.

The mere passage of time since the second edition also required a close review of all contact and other information concerning organizations and publications referenced in the book. Many changes in these listings were made, and much greater reliance was placed on increasingly available electronic addresses in the new edition.

This edition of the handbook is referred to as the 2016 Edition rather than the Third Edition because the committee plans smaller but much more frequent revisions over shorter periods of time in the future. An electronic publication instead of a print edition is more amenable to frequent revisions in the future as events unfold.

Comments, Alternatives Considered, and Policy Implications

This proposal was not circulated for public comment.

The committee considered no alternatives to the production of a revised edition of the handbook because its content needed to be updated to reflect the significant changes in the law, in conservatorship practice generally, and in the identity of and contact information on referenced organizations and publications since publication of the second edition in 2002.

The committee concluded that an electronic publication with free public access rather than a much more expensive print version was acceptable. The second edition has been posted on-line for fourteen years. The number and percentage of private conservators with access to the Internet and the ability to take advantage of that access can only have increased during that time. The method proposed for production of print copies of the handbook by courts only as needed has been in place for six years, and has apparently worked well.

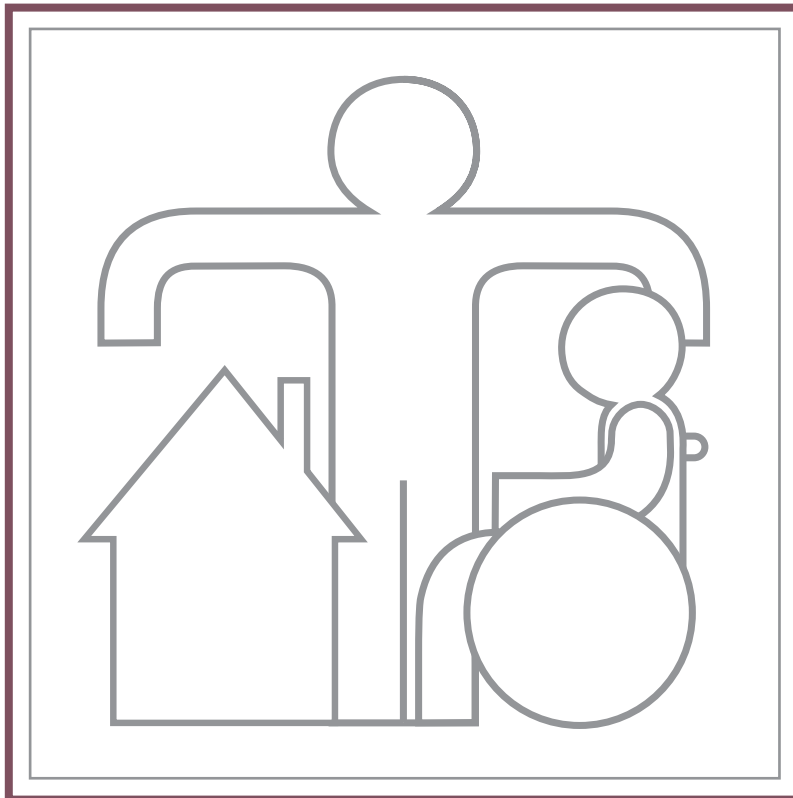
Attachment

The *Handbook for Conservators, 2016 Revised Edition*, is at pages 6-326.

DRAFT 9/20/2016

2016 REVISED EDITION

HANDBOOK *for* CONSERVATORS



JUDICIAL COUNCIL OF CALIFORNIA

HANDBOOK FOR CONSERVATORS

2016 Revised Edition



JUDICIAL COUNCIL OF CALIFORNIA

Chief Justice Tani G. Cantil-Sakauye, Chair

Martin Hoshino, Administrative Director



JUDICIAL COUNCIL
OF CALIFORNIA

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The *Handbook for Conservators: 2016 Revised Edition*, is published by the Judicial Council of California and contains information required to be provided to private conservators under Probate Code sections 1834–1835. The superior courts of California may freely download, print, and distribute this handbook. The Judicial Council also recommends and welcomes use of *Handbook for Conservators* by public conservators and trust companies for educational purposes.

The handbook is available on the California Courts website at www.courts.ca.gov/documents/handbook.pdf.
To order print copies, see page xii.

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HOW TO USE THIS HANDBOOK

This handbook has been written to help you in your role as conservator of a person, conservator of an estate, or limited conservator of a person or estate. The book starts at the point that you have been appointed conservator. It explains what is expected of you and suggests resources to help.

This is not a do-it-yourself handbook. Most likely you will need a lawyer's help at various times during the conservatorship. The symbol **L** is used throughout the book to point out situations that may require your lawyer's advice or assistance.

Although the book contains a lot of useful information, it is not meant to be read straight through. Instead, read the overview of conservatorship in chapter 1 and any other chapters that apply to you, as the following examples show:

Are you a temporary conservator?

If so, read the overview in chapter 1 and then read chapter 2.

Are you the conservator for a developmentally disabled adult?

If so, read the overview in chapter 1 and then read chapter 3.

Are you conservator of a person?

If so, read the overview in chapter 1 and then read chapter 4.

Are you conservator of an estate?

If so, read the overview in chapter 1 and then read chapter 5.

Then look in the index to find things in the rest of the book that you need to know. Keep this book handy, and refer to it when you need information.

HOW TO ORDER PRINT COPIES OF THIS BOOK

Print copies of the *Handbook for Conservators* are available only to appointed conservators of conservatees in California from the appointing California court.

- To Order:** Contact the clerk of the superior court in your county.
(A print copy of the *Handbook for Conservators* is *not* available directly from the Judicial Council.)
- Price:** Ask the clerk of the superior court in your county for the price.
- Local Supplement:** The clerk of the superior court in your county may have a local supplement to this handbook, which may cost extra.

Appointed conservators and all other interested persons and organizations may access an electronic copy of the handbook free of charge at www.courts.ca.gov/documents/conservatorship_handbook.pdf.

This handbook is based on information available as of January 2016. Although the handbook will be updated periodically, the Judicial Council will not issue a new edition every time California conservatorship laws change. You should, therefore, consult your lawyer before you make important decisions as a conservator. The points of view, concepts, and practices expressed in this handbook do not necessarily represent the official position of the Judicial Council.

We have tried to be as accurate as possible, but we realize errors are inevitable. If you spot an error or have suggestions for improvement, please write the Judicial Council of California, Legal Services, 455 Golden Gate Avenue, San Francisco, California 94102, or e-mail the council at conservatorhandbook@jud.ca.gov.

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MARTIN HOSHINO
Administrative Director,
Judicial Council

Thank you, thank you, thank you. We who have written this handbook wish to thank you who will be using it. First of all, thank you for agreeing to dedicate your time and effort to assist those in need. Second, thank you for making the effort to use this book to ensure that you do the job of conservator to the best of your ability.

HON. JAMES A. JACKMAN
Chair, Judicial Council Advisory
Committee on Conservatorships

1

OVERVIEW OF CONSERVATORSHIP

You have been appointed **conservator** by a **probate court** judge. A conservator is an individual or organization chosen to protect and manage the personal care or finances—or both—of a person who has been found by a judge or a jury to be unable to manage his or her own affairs. That person is called the **conservatee**.

There are all kinds of conservatees. Many are elderly people, and some are younger people with temporary or permanent mental or physical disabilities. They come from all walks of life and many cultures. What they have in common is that they are human beings who need help to live the best life possible.

Some conservatees can no longer shop for food or cook; others need help bathing and dressing. Some need medical care or help cleaning the house. Others can't drive and need help getting around. Some conservatees are isolated and need social activities and contact with other people.

Still other conservatees can't keep track of their money or remember to pay their bills. Some give away large sums of money to their relatives, people they think are friends, or even strangers; others need help managing their investments.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

Just as there are many kinds of conservatees, there are many kinds of conservators. What conservators have in common is their willingness to help someone who needs assistance in making his or her way in the world. A conservator might be the conservatee's wife, husband, **domestic partner**, daughter, son, mother, father, brother, sister, other relative, or friend. If there is no suitable relative or friend who is willing or able to serve, the conservator might be a professional fiduciary or a county agency called a **public guardian** or public conservator.

You have been appointed conservator because someone—your parent, spouse, child, or other relative or friend—needs help, and you are willing to lend a hand. You are the conservator because you care about the conservatee. This handbook has been written to help you carry out your responsibilities.

The position of conservator is one of great trust and responsibility. The court and the conservatee are trusting you to follow the law and to act in the conservatee's best interests. You should make choices that align with the conservatee's capabilities and wishes; that support, encourage, and assist the conservatee; and that are in the conservatee's best interests.

You are authorized to make many decisions for the conservatee, but in certain situations you must get a judge's approval first. In other situations you may want to ask the court for instructions or for approval before you act, even though you have the authority under the law to make a decision without the court's prior approval. Your lawyer will help you prepare and **file a petition** whenever you need or want to ask for court approval for a specific action. **L**

1.1 Duties of Conservators of the Person and Conservators of the Estate

The court appoints a **conservator of the person** to help someone take care of his or her daily needs. When someone needs help managing his or her finances, the court appoints a **conservator of the estate**. Often a court will appoint one person to be both conservator of the person and conservator of the estate.

Once you are appointed as conservator, it becomes your responsibility or legal duty to provide this help, depending on the type of your appointment.

BRIEF SUMMARY OF YOUR DUTIES AS CONSERVATOR OF THE PERSON

- You arrange for the conservatee’s care and protection.
- You decide where the conservatee will live.
- You make arrangements for the conservatee’s
 - health care,
 - meals,
 - clothing,
 - personal care,
 - housekeeping,
 - transportation, and
 - recreation.
- You may be required to report to the court on the conservatee’s current status. See chapter 6.

See chapter 4 for more information on the duties of a conservator of the person.

BRIEF SUMMARY OF YOUR DUTIES AS CONSERVATOR OF THE ESTATE

- You manage the conservatee’s finances.
- You locate and take control of the conservatee’s **assets**.
- You collect **income** due the conservatee.
- You make a budget to show what the conservatee can afford.
- You pay the conservatee’s bills.
- You invest the conservatee’s money.
- You protect the conservatee’s assets.
- You **account** to the court and to the conservatee for your management of the conservatee’s assets.

See chapter 5 for more information on the duties of a conservator of the estate.

1.2 Types of Conservatorships

There are several types of conservatorships. For each type, the court may appoint a conservator of the person, a conservator of the estate, or both.

A. Probate Conservatorships

Probate conservatorships are so called because they are based on laws found in the California Probate Code. This handbook focuses mainly on probate conservatorships because they are the most common type of California conservatorship. A probate conservatorship may be a **general** or a **limited conservatorship**; in addition, a **temporary conservatorship** may be needed until a general or limited conservator can be appointed (see the discussion that follows).

- **General conservatorships** are for adults who can't handle their own finances or care for themselves. These conservatees are often older people with limitations caused by aging, but they also may be younger people who have been seriously impaired—as the result of an auto accident, for example.
- **Limited conservatorships** are for adults with **developmental disabilities** who cannot fully care for themselves or their property, but who do not need the higher level of care or help given under a general conservatorship. Developmental disabilities include mental retardation, epilepsy, cerebral palsy, and autism that began before age 18. They also include conditions that are similar to mental retardation or that require similar treatment. For someone with more extensive developmental disabilities, the court may decide to appoint a general conservator.

Tip for limited conservators: Read chapter 3 first. Chapter 3 explains limited conservatorships. If you are a limited conservator of a person with developmental disabilities, read chapter 3. It will help you determine which other parts of this handbook apply to you. If you are unsure what information in this handbook applies to your limited conservatorship, check with your lawyer. **L**

- **Temporary conservatorships** may be necessary when a person needs immediate help, usually during the time between the filing of a petition for appointment of a general or limited conservator and the court hearing on that petition. A judge may appoint a temporary conservator of the person or of the estate, or both, for a specific period until a general or limited conservator can be appointed. A temporary conservator arranges for temporary care, protection, and support of the conservatee, and protection of the conservatee's property from loss or damage, during the limited period of his or her appointment.

Tip for temporary conservators: Read chapter 2 first. If you are a temporary conservator, read chapter 2. It will help you determine which other parts of this handbook apply to you. **L**

B. Lanterman-Petris-Short (LPS) Conservatorships

Lanterman-Petris-Short conservatorships are so called because they are based on the Lanterman-Petris-Short Act, a 1969 law named after its sponsors in the California Legislature. They are often simply referred to as *LPS conservatorships*, a term that will be used throughout the rest of this handbook.

An LPS conservatorship must be created to arrange for certain kinds of very restrictive living arrangements and extended mental health treatment for people who are unable to provide for their own needs for food, clothing, or shelter as a result of a mental disorder or chronic alcoholism and who cannot or will not agree to the arrangement or treatment voluntarily. Although a private citizen may be appointed an LPS conservator, the appointment process must be started by a local government agency—usually a county's public guardian or public conservator.

LPS conservatorships are not covered in this handbook. If you are an LPS conservator of an estate, you may find some of the information in chapter 5 helpful, but ask your lawyer about any differences that may affect your duties. You might also discuss with your lawyer the possibility of seeking appointment as probate conservator of the estate while continuing as LPS conservator of the person. It is generally much more convenient, more efficient, and less expensive to be a probate conservator than an LPS conservator of someone's estate. **L**

1.3 Getting Started

Before you may begin to handle the conservatee’s affairs, you must take certain steps to **qualify** as conservator. Once you have qualified, you must obtain, fill out, and file with the court an official **Judicial Council** form, called **Letters of Conservatorship**, or just Letters. A link to this form is reproduced in Appendix F, at the back of this handbook. Appendix F contains links to all of the Judicial Council forms you may need in your conservatorship.

You can get from the court paper copies of this form and all other Judicial Council forms designed for use in conservatorship matters, or you may access the forms directly online, in a format that permits you to fill them out for printing, signing, and filing with the court, at www.courts.ca.gov/forms. Once there, select the category “Probate—Guardianships and Conservatorships.” Most of the forms have a title and a form-group designator consisting of the prefix “GC-” followed by a form number. There are also forms with a prefix “FW-” and a suffix “-GC”. These are forms to request or support court fee waivers for conservatorships and guardianship cases or in certain other cases in which conservators and guardians are involved. **L**

This handbook includes many specific instructions about which form should be used for the purposes under discussion throughout the book.

A. Qualifying to Serve as Conservator

After the court hearing on your request to be appointed conservator, the judge must sign and the court must file the order appointing you as conservator. Before you can take any action as conservator, however, you must qualify for this office by

- signing an acknowledgment that you received a statement describing the duties and liabilities of the office of conservator, and also that you received the *Handbook for Conservators* (the acknowledgment is a Judicial Council form designed for this purpose, the Duties of Conservator and Acknowledgment of Receipt of *Handbook for Conservators* (form GC-348); a link to this form is provided in Appendix F, at the back of this handbook);
- obtaining a **bond**, when one is required (a bond is required in most cases to guarantee proper performance of the duties of the conservator of the estate; what a bond is and how to get one are discussed in chapter 5, section 5.1, part B); **L**

- signing an oath, or affirmation, that you will perform your duties as conservator according to the law (this affirmation is part of the Letters of Conservatorship); and
- filing these papers with the court clerk. **L**

Ask the court for its local supplement to this handbook. Most superior courts have a local supplement to this handbook. The court's supplement may have additional information about local court requirements. It may also have important information about local community resources that are available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure you have all the available local materials you need.

B. Letters of Conservatorship

After the judge appoints you conservator and you have qualified for the appointment, you must obtain your Letters of Conservatorship from the court clerk. Your Letters show your authority to act as conservator. They prove that you were appointed conservator of the person, conservator of the estate, or both and that you qualified for the office.

Some of the things that the judge has authorized you to do are spelled out in your Letters—particularly if you are a limited conservator—but most of the actions you can take that affect the conservatee's life won't be listed. These permitted actions are called **powers**, and they are stated in the California Probate Code. Consult your lawyer and review other sections of this handbook to learn of powers you have that may not be stated in your Letters. **L**

Powers not specified in Letters. See chapter 4 for the main discussion of the powers and duties of conservators of the person and chapter 5 for the main discussion of the powers of conservators of the estate. **L**

You will need to show or provide **certified copies** of your Letters as proof of your authority to act on behalf of the conservatee to persons, organizations, and government agencies with whom or with which you come in contact. (See examples that follow.)

The original Letters of Conservatorship that you sign is filed and kept in the court's file. To get certified copies of your Letters, ask a clerk

in the court clerk's office to copy the Letters and place the court seal and the date of the certification on the copies. A certified copy must have an original seal; a photocopy of a certified copy is not acceptable. The clerk will charge a fee for each certified copy.

Contact your lawyer if you don't receive your certified copies of your Letters within a few days after you have completed the steps necessary to qualify as conservator following your appointment. **L**

Keep recently certified copies of Letters on hand. The copies of Letters you provide or show to others must be *recently certified* because they are evidence of your authority to act as conservator only as of the date of the certification. For example, to transfer the conservatee's bank accounts and stocks into your possession as conservator, you must provide to the bank, to the securities broker, or directly to the company that issued the stock (or to a special kind of agent for the company, called a *transfer agent*), a copy of your Letters certified within the last 60 days. Because you must pay a fee for each certified copy, don't order more than you expect to use right away. Order updated certified copies from the court clerk whenever you need additional copies.

EXAMPLES OF ACTIVITIES FOR WHICH YOU NEED CERTIFIED COPIES OF YOUR LETTERS

- To enter a change of address for the conservatee at the post office
- To open a bank account for the conservatee's money
- To transfer the conservatee's bank accounts, stocks, mutual funds, and bonds in one or more accounts into your name as conservator
- To get into the conservatee's safe deposit box and to open a new safe deposit box in your name as conservator
- To prove to doctors and hospitals that you are authorized to **consent** to the conservatee's medical treatment, if the court has given you that authority
- To sign agreements such as leases and home care contracts for the benefit of the conservatee
- To request information about the conservatee's affairs from government agencies and private businesses, pension plans, and others
- To apply for government or other benefits on behalf of the conservatee

- ▶ To ask lawyers (other than your own lawyer) about many kinds of legal matters concerning the conservatee
 - ▶ To gather the conservatee's assets from anyone who has been holding them for safekeeping
-

C. Working with Others Involved in the Conservatorship

Before making major decisions, discuss your plans with the conservatee, the other conservator (if there is one), your lawyer, and the conservatee's family, if appropriate. There may be people involved with the conservatee who have legal rights to object to your actions. A few minutes of discussion may prevent hours of dispute and unnecessary legal costs later.

If there is another conservator, it is important that the two of you work together and communicate frequently. Because disagreements between conservators can harm the conservatee, a judge may replace one or both conservators if they can't get along.

D. Working with Your Lawyer

Communication between you and your lawyer is very important. Set up a procedure for keeping each other informed about the conservatorship and what each of you is doing. You and your lawyer should decide early on which of you will be responsible for various conservatorship tasks, such as

- gathering information about the conservatee and his or her assets or business affairs,
- seeing that the persons who have the right to be advised of certain actions and court proceedings are in fact notified in a timely way,
- **recording** Letters of Conservatorship,
- paying certain expenses,
- keeping records of the conservatee's financial transactions, and
- keeping track of when certain things must be done.

Your lawyer should give you copies of all papers he or she files with the court in the conservatorship, and copies of all but the most routine correspondence with third parties that comes into or goes out of the lawyer's office concerning the conservatorship.

Your lawyer is a valuable resource during the conservatorship. You should check with your lawyer before taking significant actions that affect the conservatee or his or her property. Many such actions require a judge's approval before you take them. Other actions may require that advance mailed notice of the action be given to the conservatee's family members and others, and proof made to the court that notice has been given. For example, you should consult with your lawyer ahead of time if you wish to

- move the conservatee to a new home or to a different kind of treatment or **care facility**;
- sell the conservatee's home or other real estate;
- make gifts of the conservatee's property, or attempt to change the conservatee's will or estate plan;
- make a major medical decision for the conservatee;
- invest the conservatee's property, or change investments the conservatee made before your appointment as conservator;
- borrow money on behalf of the conservatee; or
- become involved in a lawsuit on the conservatee's behalf.

1.4 Conservators Who Live Out of the Area

If you live in a different county or state than the conservatee, the judge must be sure that you can carry out your duties as conservator from that distance. The court expects you to be as good a conservator as if you lived near the conservatee.

See chapter 4, section 4.10, for helpful information for a conservator of the person who does not live in the conservatee's area.

1.5 The Conservatee's Rights

When a person becomes a conservatee, he or she does not necessarily lose the right to take part in important decisions affecting his or her property and way of life. All conservatees have the right to be treated with understanding and respect and to have their wishes considered. They have all basic human rights, as well, and the right to be well cared for by you.

The conservatee has the right to ask questions and to express concerns and complaints about the conservatorship and your actions as conservator. The conservatee may ask the court to review your handling of the conservatorship if disputes can't be worked out between you. Even if the conservatee does not take direct action, the court will periodically send a person, called a **court investigator**, to see the conservatee, to inquire about his or her circumstances and desires, and to advise the conservatee of his or her rights. The court may also appoint a lawyer to represent the conservatee.

The conservatee retains the rights to

- directly receive and control his or her salary;
- exercise a class of retained rights referred to in the law as “personal rights,” which include—but are not limited to—the rights to receive visitors, telephone calls, and personal mail (unless these rights are specifically limited by court order); the court may also specifically direct the conservator to allow these rights to be exercised or grant to the conservator the power to enforce the conservatee's exercise of these rights against others, such as the administrators of a care facility where the conservatee resides;
- make or change a will;
- marry, unless a judge has determined that he or she does not have the capacity to do so;
- be represented by a lawyer;
- ask a judge to change conservators;
- ask a judge to end the conservatorship;

- vote, unless a judge decides the conservatee isn't capable of exercising this right; recent changes in the law have made the loss of a conservatee's right to vote much less likely than in the past; a conservatee also has a much greater chance for his or her right to vote to be restored under the new law; **L**
- control personal spending money, called an **allowance**, if the judge has authorized you to pay it directly to the conservatee;
- make his or her own medical decisions, unless a judge has taken away that right and given it to you;
- enter into business transactions, to the extent reasonable to provide the necessities of life to the conservatee or to his or her minor children; and
- engage in other activities the court expressly allows him or her to do, at the time of your appointment, or a later time following a court hearing on a request for authority to engage in the activity.

If the conservatee is a patient in a board-and-care home, nursing home, or other care facility, a state law called the Patient's Bill of Rights applies. This law lists a patient's personal, social, financial, and medical rights in the facility, including the right to privacy. As a patient, a conservatee must be given a copy of this bill of rights when he or she is admitted to the facility, and it must be posted in an obvious place in the facility.

1.6 Duty to Notify the Court of Possible Changes in the Conservatee's Marriage or Domestic Partnership

A. When You Are Married to or the Domestic Partner of Your Conservatee

If you are the husband, wife, or domestic partner of your conservatee, you must give written notice to the probate court in the conservatorship proceeding (and must mail a copy of the notice to the conservatee and to any other conservator) if you become a party to an action for legal separation, for dissolution of your marriage, or for an adjudication of nullity of your marriage, or if your domestic partnership is ended in any of the ways provided in the law. You must give and mail notice within 10 days

of the date the action concerning your marriage was filed or the domestic partnership was ended.

On receipt of the notice, the probate court may set a hearing and require you to show cause why your appointment as conservator should not be ended and a new conservator appointed. The court may also appoint a lawyer for the conservatee to protect his or her interests at the hearing. You would not automatically be removed as conservator after the hearing, but would have to show, by a higher than usual amount of proof, that your continued appointment as conservator would be in the best interests of the conservatee despite the action concerning your marriage or the termination of your domestic partnership.

B. When Your Conservatee Has a Spouse or Domestic Partner Who Is Not a Conservator

If you are neither the spouse nor the domestic partner of your conservatee, but he or she is married or has a domestic partner, the spouse or the partner must disclose to you and to any other conservator that any of the actions mentioned above concerning the marriage have been filed, or that the domestic partnership has been terminated, within the same 10-day period. When you receive this disclosure, you should immediately consult with your lawyer to help you decide what steps, if any, should be taken to protect your conservatee. If there is more than one conservator or lawyer, all of you should work closely together. **L**

Many, if not most, domestic partnerships are between persons of the same sex. However, you should be alert to the possibility of a domestic partnership between elderly persons of the opposite sex. An unmarried man and an unmarried woman can enter into a domestic partnership if either is over the age of 62 and either is eligible for social security, old-age insurance, or Supplemental Security Income (SSI) benefits for aged individuals (the minimum age for the latter is 65).

1.7 Changing Conservators or Ending the Conservatorship

When will your responsibilities as conservator end? They may end when the conservatee dies, when a judge ends the conservatorship, or when a judge appoints someone else as conservator in your place.

The conservatorship will end when the conservatee dies. It may also end when a judge decides it is no longer needed because, for example, the conservatee has become able to handle his or her own affairs or because the assets of the **conservatorship estate** have been used up for the conservatee's care.

The conservatorship sometimes may continue, but with a new conservator, referred to as a *successor conservator*. This change happens when the first conservator dies or resigns. It may also happen because a judge has terminated the first conservator's appointment and replaced him or her with a different person or organization as conservator.

No matter how or why the conservatorship ends, you will be required to wind things up before you are released from your conservatorship responsibilities.

See chapter 8 for more information about the end of a conservatorship or a change in conservators.

2

TEMPORARY CONSERVATORSHIP

Taking Care of the Conservatee's Immediate Needs

A judge may appoint a **temporary conservator** to take care of the conservatee's immediate needs until a general or limited conservator can be appointed. A temporary conservator may also be appointed to fill in between general conservators if, for example, the general conservator dies, becomes incapacitated by illness or other cause, or has been removed by the judge. The judge will set a specific date on which the temporary conservatorship will end.

A temporary conservator may be **conservator of the person, conservator of the estate**, or both. He or she arranges for temporary care, protection, and support of the conservatee and protects the conservatee's finances and property from loss or damage until a general conservator can be appointed.

For example, a man's health may have gotten so bad that he can't do routine chores. His home may have become so dirty, cluttered, and hazardous that the author-

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

ities will not let him continue to live there. A temporary conservator may be appointed to make immediate arrangements for handymen, contractors, or a cleaning service to fix the hazards, clean the home, and haul away accumulated trash so the man can stay in his home safely.

As another example, a friend may notice that an elderly woman is being persuaded to give away large sums of money. A temporary conservator may be needed immediately to protect and manage her finances so that no one takes further advantage of her before a general conservator can be appointed.

2.1 Specific Ending Date for Temporary Conservatorships

Whereas a general conservatorship continues until the conservatee dies or a judge ends it, a temporary conservator is appointed for only a fixed time period, usually 30 to 60 days, and only until a general or limited conservator is appointed or the **petition** for such an appointment is denied. The **Letters of Temporary Conservatorship**, or Temporary Letters, will show the exact date when the temporary conservatorship ends.

2.2 Mandatory Advance Notice and Hearing in Appointments of Temporary Conservators

The appointment of a temporary conservator is not routine. Unless for good cause a judge orders otherwise, a court hearing must be held on the petition for appointment of a temporary conservator. Five days' advance notice of the time and place of that hearing, plus a copy of the petition, must be delivered to the proposed conservatee and mailed to the persons entitled to notice of the hearing on the petition for appointment of a general conservator—generally, the conservatee's spouse or domestic partner and closest relatives. **L**

2.3 Mandatory Attendance of Proposed Conservatee at Hearing

The proposed conservatee must attend the hearing on the petition for appointment of a temporary conservator unless he or she is outside the state or cannot attend because of medical inability, or if the court investigator has visited with him or her and has reported to the court that he or she is unwilling to attend

and does not wish to contest the appointment of a temporary conservator or the appointment of the particular candidate for that office.

The court may also decide that holding the hearing in the proposed conservatee's absence is necessary to prevent substantial harm to the proposed conservatee, even though he or she is unable or unwilling to attend but may still have objections to the appointment of a temporary conservator or to the particular person proposed for that appointment.

2.4 The Court Investigator's Role in Temporary Conservatorships

Unless unfeasible, a court investigator must meet personally and speak with the proposed conservatee and advise him or her concerning the petition for appointment of a temporary conservator. The court investigator must also interview the petitioner, the proposed temporary conservator, and, to the greatest extent possible, other persons close to the conservatee, including his or her spouse or partner, closest relatives, neighbors, and, if known, close friends. The investigator must then report to the court before the hearing on the petition for the temporary conservatorship. If all of these steps cannot be completed before the hearing, they must be finished within two days thereafter. The investigator may recommend the appointment of a lawyer for the proposed conservatee and must advise the court if it appears to the investigator that the temporary conservatorship is inappropriate.

2.5 Restrictions on Moving the Conservatee from Home

A temporary conservator of the person may not move the conservatee from his or her home without a judge's prior approval (except in the case of an emergency). Because moving is a major and often traumatic change in a person's life, particularly for an elderly person, the temporary conservator must persuade a judge that the conservatee will be irreparably harmed if he or she isn't moved, and no less drastic action will prevent that harm. Any move must be within the state of California unless **removal** from the state is required to permit specified nonpsychiatric medical treatment that has been consented to by the conservatee and is essential for his or her survival.

The request for authority to move the (proposed) temporary conservatee may be made in the Petition for Appointment of Temporary Conservator (form GC-111) or separately, after the appointment, but must state the place to which the temporary conservatee would be moved and the reasons why he or she would suffer irreparable harm if the move is not allowed. The conservatee must be present at the hearing unless he or she is unable to attend due to medical inability or does not wish to attend and does not oppose the move.

Unless the court otherwise orders for good cause, a court investigator must meet in person and speak with the conservatee to see how he or she feels about the move. If the conservatee doesn't want to move, he or she has the right to be represented by a lawyer at the court hearing, and the court may appoint a lawyer for the conservatee. The investigator will make a report to the court before the hearing on the request for authority to make the move. This report will include the investigator's determination as to whether the conservatee will be irreparably harmed if the move is not made. If the conservatee is moved, the temporary conservator must make sure that the former residence is preserved for the conservatee's possible return, unless the court has also determined that grounds exist for a sale of the residence or an end to the conservatee's tenancy of a rented or leased residence to prevent irreparable harm to the conservatee. (See section 2.6.)

What if the condition of the conservatee's home is so dangerous that the home is unsafe to live in? Or what if a doctor advises the temporary conservator that the conservatee may die if he or she isn't put in the hospital for immediate medical treatment?

In these kinds of emergencies, the temporary conservator may move the conservatee. But, on the very next day that the court is open after the move, the conservator must **file** a request asking the court to approve the move. The conservatee has the right to be represented by a lawyer when the judge considers this request.

The temporary conservator may move the conservatee without a judge's prior approval only when

- the conservatee's home isn't a fit place to live;
- the temporary conservator determines in good faith based on medical advice that (1) the conservatee needs to be hospitalized for immediate treatment to relieve severe pain, or (2) the conservatee may die or be seriously disabled if he or she isn't immediately removed from the residence for diagnosis or treatment;

- the conservatee gives an informed consent to removal to a health facility for treatment; or
- the conservatee is moved from one health facility to another for medical care.

2.6 Restrictions on Selling or Ending Tenancy in the Conservatee's Home

Without prior court approval after a hearing, a temporary conservator cannot sell the conservatee's home or, if the conservatee is a renter, give up the conservatee's residential lease or tenancy.

The conservatee must be personally notified when a temporary conservator asks for a judge's permission to sell or give up the lease on the conservatee's home. The judge will not give approval unless the conservatee can clearly no longer live in the home and will be subject to serious personal or financial harm if these steps aren't taken immediately.

2.7 Restrictions on Selling or Giving Away the Conservatee's Assets

A temporary conservator may not sell or give away an estate asset without a judge's prior approval. The temporary conservator must prove to the judge that the property has to be sold to prevent serious financial harm. For example, the conservatee may own a summer cottage that was damaged in an earthquake or fire. It is empty, it cannot be rented, and no insurance company will insure it.

Even if an asset must sometimes be sold in an emergency during a temporary conservatorship, the temporary conservator should be especially careful not to sell or dispose of any of the conservatee's personal belongings. **L**

2.8 Inventorying the Estate and Accounting to the Court

A temporary conservator of the **estate** must prepare and file an **Inventory and Appraisal** within 90 days of appointment unless he or she files a final account as temporary conservator within that time or is appointed general conservator of the estate. The Inventory and Appraisal lists the conservatee's assets that have been collected by the temporary conservator and values them as of the date of the temporary conservator's appointment.

A temporary conservator of the estate who is not appointed as a general conservator must file a final account of the conservatee's estate collected by the temporary conservator within 90 days after the temporary conservatorship ends, unless the court changes the filing date. If the temporary conservator is later appointed general conservator, the accounting for the temporary conservatorship may be included in the first accounting for the general conservatorship, no later than a year after appointment of the general conservator.

See chapter 5, section 5.7, and Appendix C for more information about the Inventory and Appraisal. See chapter 5, section 5.9, and Appendix D for more information about the accounting.

3

LIMITED CONSERVATORSHIP

Assisting a Person Who Has a Developmental Disability

A **limited conservator** may be appointed for an adult with a **developmental disability**. Limited conservatorships are set up to assist developmentally disabled adults who are unable to provide for all their personal or financial needs. Because the **conservatee**'s growth and development have been impaired or delayed, a limited conservatorship attempts to encourage further development wherever possible. A limited conservator's duty is to help the limited conservatee develop maximum self-reliance and independence.

The conservator arranges

- training in basic living skills,
- education,
- medical care and counseling, and
- social, recreational, and work opportunities.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

Special services are available for people with developmental disabilities. These resources are discussed in section 3.6.

Limited conservatorships differ from **general conservatorships** in the following ways:

- When a judge is asked to appoint a limited conservator, the proposed conservatee must have a lawyer, either chosen by the conservatee or appointed by the court.
- When a **petition** for appointment of a limited conservator is filed, an **assessment** of the proposed limited conservatee must be conducted by a California regional center for the developmentally disabled, which must file a confidential report of the assessment with the court before the hearing.
- Unless a judge authorizes it, the limited conservator does *not* have the powers to
 - ▶ decide the residence of the conservatee,
 - ▶ gain access to the confidential records and papers of the conservatee,
 - ▶ control the conservatee’s social and sexual relationships,
 - ▶ control the conservatee’s financial resources, or
 - ▶ make decisions concerning the conservatee’s education.
- The conservatorship ends when the conservator dies.

As a limited conservator, you should be familiar with all the information in this handbook. If you have questions about whether general conservatorship information applies to limited conservatorships, contact your lawyer. **L**

3.1 Limited Conservator’s Authority

As a limited conservator, you have the authority to do only those things that were laid out by the judge when you were appointed. The judge has decided which responsibilities the conservatee will keep and which ones you will have. Your **Letters of Conservatorship** and the judge’s order appointing you state what you are allowed to do.

By contrast, a general conservator is empowered to act in areas that aren’t necessarily specified in his or her Letters. The Letters of a general conservator

specifies only special powers or limits set by the judge. It is important to recognize this difference in using the information in other chapters of this handbook.

To find out more about any of your responsibilities as a limited conservator, look in this handbook to find that responsibility for general conservators. For instance, if you have been charged with deciding where the limited conservatee will live, look at chapter 4, section 4.2. Or if you are authorized to decide about medical care, read chapter 4, section 4.3. But remember, there may be differences in the way these situations should be handled for a limited conservatee. **L**

Because a limited conservatee is considered to be growing and developing, always try to make choices that will enhance self-reliance and independence. Your choices for a 25-year-old limited conservatee may differ from the options for an elderly person in bad health, for example.

Authority of Limited vs. General Conservator

Limited Conservator: The judge gives the limited conservator authority to take care of specific aspects of the limited conservatee's life and no other aspects; the limited conservator's Letters lists the exact areas in which he or she is authorized to act.

General Conservator: The general conservator has authority to take care of a broad range of the conservatee's needs; the general conservator's Letters won't list all the many areas in which he or she is authorized to act but will specify only limits on that authority or additional special powers.

3.2 Limited Conservator of the Person

A limited conservator of the person has only the authority specified in his or her Letters. A judge may authorize a limited conservator of the person to

- decide where the conservatee will live;
- see mail, medical records, test results, reports, and all other confidential records and papers relating to the conservatee;
- consent or withhold consent to the conservatee's marriage;
- be the only person who may **consent to medical treatment**;

- restrict the conservatee’s social and sexual contacts and relationships;
- make all decisions about the conservatee’s education; and
- restrict the conservatee’s right to make contracts.

A. Authority to Control Contracts

The authority of a limited conservator of the person to control the conservatee’s contracts is unique to limited conservatorships. In general conservatorships, this authority is given to the conservator of the **estate**.

The authority of the limited conservator of the person is to control the conservatee’s authority to make contracts. A limited conservatorship of the estate is still required if you, as limited conservator, for the benefit of the conservatee, need to enter into contracts yourself that bind or obligate his or her estate, or if you need to manage property of the conservatee. If, on the other hand, the conservatee controls his or her own contracts and retains management powers over his or her financial affairs, there may be no need to appoint a limited conservator of the estate.

B. No Authority to Sterilize a Limited Conservatee

Even if you have been given authority to consent to medical treatment for the limited conservatee, you are not allowed to have the conservatee sterilized. Only a judge may make that decision. If any proposed medical treatment or surgery may result in sterilization, get legal advice. **L**

3.3 Limited Conservator of the Estate

A limited conservator of the estate has only the authority specified in his or her Letters. If you have been appointed conservator of the estate, the information about estate conservatorships in other parts of this handbook applies to you, subject to the limits on your authority to act shown in your appointment order and your Letters.

3.4 Court Supervision of a Limited Conservatorship

A court investigator will visit the limited conservatee one year after appointment and every two years thereafter, and at any other time ordered by the court, on its own motion or on the motion of any other interested person. The investigator will recommend to the judge whether the limited conservatorship should continue.

3.5 Ending a Limited Conservatorship

A limited conservatorship continues until one of the following occurs:

- The limited conservator dies.
- The limited conservatee dies.
- A general conservator is appointed.
- A judge ends the limited conservatorship.

If the conservatee dies and you are conservator of his or her person, be sure to file the Notice of the Conservatee's Death (form GC-399) and mail or deliver copies of it personally to the persons the law requires. See the discussion in chapter 8, page 8-5, for more information about this duty. If you are the limited conservator of the estate, your responsibilities as conservator will end after the conservatee's death or after the judge ends the conservatorship, *but* only after you file a **final account** and report and the judge approves it and then **discharges** you. Contact your lawyer for help preparing an accounting, if required, or a report to file with the court at the end of your service as conservator. **L**

3.6 Regional Center Resources

In California, people with developmental disabilities have access to services they need to live independent and productive lives. The state provides services for each person with a developmental disability at each stage of life, regardless of age or degree of handicap. These services are available whether the person is under a general conservatorship, a limited conservatorship, or no conservatorship at all.

State services are provided by **regional centers**. These nonprofit corporations have contracts with the California Department of Developmental Services to serve people with developmental disabilities in a geographical area. To find the regional center for your area, see Appendix B, How to Find and Use Community Resources, in the back of this handbook.

The appropriate regional center must be given notice when a court is asked to appoint a conservator for someone with a developmental disability. In most instances, the regional center must assess the proposed conservatee's needs and report the results to the court before the hearing on the petition for appointment of a conservator.

Regional centers can offer a lot of help. They provide some services directly, including assessment, **case management**, planning of a program of care for the conservatee, and advocacy for the conservatee's rights. Regional centers will also help you get other services needed by the conservatee. If the center staff can't find an agency to provide the service without charge, the center is supposed to pay for the service. See the following list of regional center services.

Additional Resources

Chapter 4, section 4.7, part G: Day Programs for People with Developmental Disabilities.

Chapter 4, section 4.7, parts M and N: Work-Training Programs, and Schools and Colleges, respectively.

See also Appendix B, How to Find and Use Community Resources.

REGIONAL CENTER SERVICES

Regional centers arrange for or provide a number of services to people with developmental disabilities, even those who are not conservatees.

Services include

- diagnosis, evaluation, and treatment;
 - personal care, day care, and special living arrangements;
 - physical and occupational therapy;
 - job training and education;
 - information about employment opportunities in sheltered settings;
 - services to help people with developmental disabilities work in the general community;
 - mental health services;
 - recreation;
 - individual and family counseling;
 - protective services;
 - information and referral services;
 - transportation to and from services;
 - respite care; and
 - advocacy to help people with developmental disabilities get and keep government benefits.
-

4

CONSERVATOR OF THE PERSON

Caring for the Conservatee's Personal Needs

As a **conservator of the person**, you are responsible for making sure that the conservatee's physical health, food, clothing, shelter, safety, comfort, recreation, and social needs are met. Your goal is to provide the best quality of life possible for the conservatee. You must treat the conservatee with respect, making choices that encourage his or her self-esteem and dignity.

Special Note for Limited Conservators

If you are a conservator of the person in a **limited conservatorship**, the order appointing you and your Letters of Conservatorship will specify those areas you are allowed to handle.

Read chapter 3 on limited conservatorships and then read through this chapter to learn about the particular areas you are authorized to handle.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

SUMMARY OF TIMELINE AND RESPONSIBILITIES FOR A CONSERVATOR OF THE PERSON

- Step 1** You are appointed and qualify as conservator of the person.
- Step 2** Obtain your Letters of Conservatorship (usually just called Letters). Sign and file the original Letters with the court, and purchase and deliver or show certified copies to prove to the conservatee’s doctors, health insurers, and other interested persons and organizations that you are authorized to act on the conservatee’s behalf.
- Step 3** Take care of the conservatee’s urgent needs.
- Step 4** Determine the level of care that is possible and required to meet the conservatee’s ongoing needs. Your determination must be in writing and filed with the court within 60 days of your appointment. **L**
- Your court may require you to file a conservatorship plan in addition to the care-level form that is required in all courts, the Determination of Conservatee’s Appropriate Level of Care, Judicial Council form GC-355, or a status report concerning the conservatee’s present condition and circumstances. Check with your lawyer to see what requirements your court may have, in addition to the Judicial Council form. **L**
- Step 5** Arrange for the conservatee’s
- living situation,
 - health care,
 - meals,
 - clothing,
 - personal care,
 - housekeeping,
 - transportation, and
 - recreation.
- Step 6** You will serve as conservator until a judge officially releases you from your duties. This may happen if you resign and the court accepts your resignation, the conservatee dies, or a judge replaces you with a new conservator or decides that the conservatee no longer needs a conservator.

4.1 Getting Started

Once you have been appointed conservator of the person of the conservatee, you will need to take certain steps to qualify to serve and obtain your **Letters of Conservatorship** (a court form designated as **Judicial Council** form GC-350, often referred to simply as your Letters), which is evidence that the court has authorized you to act as conservator. Links to all Judicial Council forms used in conservatorships, including this one, are provided in Appendix F, at the end of this handbook. Next, you should buy **certified copies** of your Letters from the clerk of the court and give or show them to the conservatee’s doctor, dentist, and other key people and organizations to let them know that you are handling the conservatee’s personal affairs and have legal authority to do so. You should then evaluate the conservatee’s abilities and needs and develop a plan for meeting your responsibilities on an ongoing basis. If you are represented by a lawyer, you should discuss all of the tasks involved and decide who will be responsible for each. **L**

A. Qualifying to Serve as Conservator of the Person

Once you have been appointed as either a limited or **general conservator** of the person of the conservatee, you must qualify by

- signing and filing with the court an acknowledgment that you received a statement of the duties and liabilities of the office of conservator and the *Handbook for Conservators* (this acknowledgment is on the official statement of a conservator’s duties and liabilities, a Judicial Council form called Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservatorships (form GC-348); a link to this form is included in Appendix F);
- signing an oath, also called an *affirmation*, that you will perform your duties as conservator according to law (this affirmation is on the Letters of Conservatorship); and
- satisfying any other requirements that your court may have.

See chapter 1, section 1.6, concerning the duties of a spouse or domestic partner of a conservatee when changes are possible in the conservatee’s marital or domestic partnership status.

B. Obtaining and Using Letters of Conservatorship

When you have qualified as conservator, you must sign and **file** with the court your original Letters of Conservatorship. You should obtain certified copies from the court clerk's office. The Letters show that you are authorized to act as conservator.

You will often need certified copies of your Letters to prove that you have authority to act or make decisions for the conservatee. For example, doctors, hospitals, health insurance companies, nursing homes, government agencies, banks, securities brokers, and other managing assets that the conservatee owns or has an interest in may not honor your requests on the conservatee's behalf until they have seen certified copies of your Letters.

See chapter 1, section 1.3, for more information about qualifying as conservator and obtaining the original and certified copies of your Letters of Conservatorship.

C. Assessing the Conservatee's Needs

Helping the conservatee stay self-reliant and active requires different forms of assistance for every individual. The conservatee's emotional and physical needs must be taken into account. Even if you've been close to the person you are going to help, now that you are conservator, take a fresh look at his or her needs and find out what services are available to meet them.

Chapter 6 includes a worksheet to help you assess the conservatee's needs. You also may want to have a professional assist you; check with the social work department of your local hospital, a **regional center**, or the **court investigator** to get a referral to a community-based agency that provides **assessment** services. If there is a fee for this assessment service, the court may allow estate funds to be used to pay or reimburse you for the cost. **L**

D. Working with the Conservator of the Estate, a Trustee, or the Conservatee's Spouse or Domestic Partner

You need to find out what financial resources are available for supporting and taking care of the conservatee. If someone else—such as a **conservator of the estate**, a **trustee**, or the conservatee's spouse or domestic partner—is managing some or all of the conservatee's property, you must

work closely with that person (or persons, if appropriate). Talk with each person who manages the conservatee's property to be sure you make arrangements for support and care that the conservatee can afford. This is important because you may have to pay out of your own pocket for expenditures that were not approved by the person or persons who handle the conservatee's finances.

E. Working with the Conservatee

Help the conservatee do as much as possible for himself or herself, and let the conservatee have as much independence as he or she can handle. You should involve the conservatee as much as possible in your decisions. Even a seriously impaired person can choose the color of clothing or a type of hand lotion, for example. When you must decide for the conservatee, try to make choices that respect the conservatee's stated preferences, personal independence, dignity, and lifestyle.

Remember, though, that in the end, you are the decision maker, and the court will hold you responsible.

F. The Conservatee's Personal Rights

As noted in section 1.5 of chapter 1, the conservatee retains certain personal rights. He or she has the right to ask questions and to express concerns and complaints about the conservatorship and your actions as conservator. The conservatee may ask the court to review your handling of the conservatorship if disputes can't be worked out between you. Even if the conservatee does not take direct action, the court will periodically send a court investigator to see the conservatee, to inquire about his or her circumstances and desires, and to advise the conservatee of his or her rights. The court may also appoint a lawyer to represent the conservatee.

The conservatee keeps the right to exercise a class of rights referred to in the law as "personal rights," including—but not limited to—the rights to receive visitors, telephone calls, and personal mail (unless these rights are specifically limited by court order). The law gives the court express authority to direct you specifically to allow the conservatee to receive visitors, telephone calls, and personal mail or to grant you the power to enforce the conservatee's exercise of these rights against others—for example, the administrators of a care facility where the conservatee resides.

A written statement of the rights a conservatee keeps after the appointment of a conservator must be attached to the order appointing

you as conservator, and you must mail copies of the statement and the order to the conservatee; the conservatee's attorney, if any; and the conservatee's spouse or domestic partner and relatives who were listed in the petition for your appointment as conservator. You must do this within 30 days of the date of the appointment order.

The written statement is contained in Judicial Council form GC-341, Notice of Conservatee's Rights. A link to this form is provided in Appendix F.

You should consult with your lawyer as soon as you have reason to believe there may be conflicts between the conservatee and members of his or her family, or among family members, concerning their access to the conservatee or his or her property, or if a care facility where the conservatee lives appears likely to interfere with family members' access to the conservatee. **L**

Disputes between family members on issues of access to the conservatee are very common and may reflect long-standing personal disputes between them or between the conservatee and some of them. Access disputes may also stem from real concerns about elder abuse, including financial abuse, by family members or friends. These disputes are often very serious matters and deserve attention as soon as you become aware of them.

G. Determining the Conservatee's Appropriate Level of Care

You must decide what the appropriate kind and level of care should be for the conservatee. Your decision, called a *determination*, must be in writing and must be filed with the court within 60 days of the date of the court order appointing you as conservator. The court form you must use for this purpose is the Determination of Conservatee's Appropriate Level of Care (Judicial Council form GC-355). A link to this form is included in Appendix F. **L**

Your determination must include an evaluation of the level of care that existed when the petition for your appointment as conservator was filed and the steps that would be necessary to keep the conservatee in his or her personal residence. (See section 4.2, part B, below, for more information on the conservatee's personal residence.) If on that date the conservatee was not living in his or her personal residence (because he or she was temporarily in a hospital or care facility), your determination must include a plan to return the conservatee to his or her personal res-

idence or an explanation of any limits or restrictions that would prevent the conservatee's return to that residence in the foreseeable future.

You must reevaluate the conservatee's placement and level of care whenever a significant change occurs in the circumstances affecting the conservatee's needs for placement and care. Your reevaluations are not required to be filed with the court, and there is no court form for them, but you may decide to file a reevaluation as part of a report filed with an accounting if you or someone else was appointed as conservator of the estate. (See chapter 5, section 5.9, for a discussion of reports and accountings.) Whether or not any reevaluation you make is ever filed with the court, you should write it down and preserve it in your records. You may use a copy of form GC-355 for this purpose.

In addition to the level-of-care determination, some courts require a care plan, often on local forms adopted by the court. If your court requires a care plan, you must comply with the requirement in addition to making and filing the level-of-care determination described above. (See, for example, rule 4.89(a) of the local rules of the Superior Court of Los Angeles County, and that court's Conservatorship Care Plan [County of Los Angeles local form PRO-023]; and rule 14.86J2 of the local rules of the Superior Court of San Francisco County, and that court's General Plan for Personal and Financial Needs of Conservatee [County of San Francisco local form P74].)

Check with your lawyer for the latest information on the level-of-care determination and its relationship to specific local court requirements and forms. **L**

Note for Limited Conservators

If you are a limited conservator working with the California Department of Developmental Disabilities or a regional center for the developmentally disabled, you may not have to prepare and file a written care determination. Check with the department or your regional center for more information. **L**

H. Developing Your Conservatorship Care Plan

Chapter 6, section 6.1, of this handbook explains how you can prepare a plan for the care of your conservatee and the value of such a plan. Whether you are conservator of the person, conservator of the estate, or both, the plan will be extremely useful in helping you identify the conservatee's needs and keep track of all your duties.

Reviewing and adjusting your plan periodically is also a very good idea, particularly if you are conservator of the estate as well as conservator of the person. Periodic reviews and adjustments are useful because changing financial conditions or other unexpected events can affect the estate. A conservatee's daily needs are also likely to change over time. For more information, read chapter 6, section 6.2. As noted in the previous part, you will also have to reevaluate the level-of-care determination you initially make if a material change in the circumstances affects the conservatee's needs for placement and care.

4.2 Deciding Where the Conservatee Will Live

One of your most important duties as conservator of the person of your conservatee is to decide where he or she should live, unless the judge has ordered you not to move the conservatee to a new home or has given the conservatee the authority to make that decision, which is rare, mostly for limited conservatees. Unless the judge has made those orders in your case, you have the right to determine where the conservatee will live within the state of California without prior court approval, although your choices have limits (see section 4.2, part B, below), and other persons may have the right to question and speak to the judge concerning any choices you make (see section 4.2, part E, later in this chapter).

It's usually best for the conservatee to stay in his or her home if the home is suitable and necessary help and equipment are available and affordable to make the home safe and comfortable. But wherever the conservatee lives, you are responsible for seeing that the home is safe and comfortable and allows the conservatee as much independence as possible.

A. Moving the Conservatee Outside the State

If you want to move the conservatee outside of California, you must ask for the court's permission before you can make the move. The paper you file to ask for this permission is the Petition to Fix Residence Outside the State of California (Judicial Council form GC-085). A link to this form is included in Appendix F, together with a link to the form for the court order granting permission for the move (form GC-090). You must give prior notice of the hearing on your petition to the same persons who were given notice of the petition for your appointment as conservator. Any of these persons may oppose or raise questions about the proposed move and may address the court about it. **L**

The California Conservatorship Jurisdiction Act, effective January 1, 2016, is a uniform law that has counterparts in every state, Washington DC, and Puerto Rico, and also with federally recognized American Indian tribes that have court systems and proceedings similar to conservatorships for tribal members. This law provides a means to transfer a conservatorship proceeding from California to another state or jurisdiction when the conservatee is to become a permanent resident of the other state or jurisdiction. The law also provides for transfers of conservatorships from other jurisdictions to California under the same circumstances and permits California tribal courts and state courts to transfer cases between them and even to share responsibility for supervision of conservatorships for California Indian tribal members by courts of both jurisdictions.

This law also permits conservators (or, as they are commonly called in other states, guardians) appointed in other jurisdictions to **register** with a California court on behalf of their nonresident conservatees. Registration in California would permit the foreign conservator/guardian to act in this state—a useful power if, for example, a nonresident conservatee without capacity to consent to immediate medical treatment becomes ill while visiting relatives in California or owns California real property that must be sold, leased, or mortgaged. Once registered here, a foreign conservator/guardian must fully comply with California law, including provisions of that law that require the permission of the California court to take or complete certain actions.

Registration provisions in the law of other jurisdictions may also permit California conservators to register their conservatorships in those jurisdictions, but care is essential. These “uniform” laws are not precisely uniform in their details in all jurisdictions. Consultation with qualified counsel in any other jurisdiction where registration of a California conservatorship is under consideration is advisable. **L**

The Judicial Council has adopted three forms that must be used to give prior notice of an intent to register, and to register, a foreign conservatorship/guardianship with a court of this state: the Conservatorship Registration Cover Sheet and Attestation of Conservatee’s Non-Residence in California (form GC-360), Notice of Intent to Register Conservatorship (form GC-361), and Conservatorship Registrant’s Acknowledgment of Receipt of *Handbook for Conservators* (form GC-362). Links to these forms are given in Appendix F.

This law is too complex to discuss here in detail. If you have a possible transfer issue, either into or out of California, you should not try to handle it without the assistance of experienced counsel in all affected jurisdictions. **L**

B. Arranging for the Least-Restrictive Appropriate Home Setting

When you are deciding where the conservatee will live, remember that California law requires you to choose the least-restrictive appropriate home that is available and necessary to meet the conservatee’s needs and is in the conservatee’s best interests.

The law gives a special preference for a conservatee’s *personal residence*, a term that is defined in a rule of court as the residence the conservatee believed or appeared to believe was his or her permanent residence when the conservatorship case began—when the petition for the appointment of a conservator was filed—whether or not the conservatee was living there at that time. As noted in section 4.1, part G, above, the level-of-care determination must include an evaluation of the steps that would be necessary to keep or return the conservatee to his or her personal residence or the reasons why that cannot or should not be done. A planned move from the conservatee’s personal residence even to another location in California requires prior (pre-move) notice to the court and to other interested parties, whereas moves from other residences within California may be made in advance of any notice to the court or to anyone else. See section 4.2, part E, later in this chapter.

If the conservatee’s personal residence, as defined above, can be identified, special care should be taken to develop, document, and support reasons why a move away from that residence or a move from a temporary living situation, such as a hospitalization, to a different residence is necessary and in the conservatee’s best interests. **L**

To find the least-restrictive appropriate living situation, choose a residence that offers the services that the conservatee needs to live as independently as possible. In some cases, the conservatee's home when the conservatorship began may be the least-restrictive appropriate setting with help from an **aide** and the use of community services. The conservatee may have more freedom and feel less threatened at home than in any other setting. However, you should also consider whether the conservatee has enough contact with other people and receives enough mental stimulation at home.

On the other hand, consider a frail conservatee who can walk but wanders and could be hurt by a fall. In a care facility that has adequate staff and a safe environment, this person can enjoy the freedom to walk around.

If the conservatee suffers from **dementia**, a form of mental impairment of which Alzheimer's disease is an example, you may have to move him or her to a special kind of care facility, known as a **secured-perimeter residential care facility**. This is a care facility that specializes in the care and treatment of people with dementia. It is designed to prevent patients from wandering off the premises while impaired. If you want to arrange for this kind of placement, you must first ask the court for authority to make this decision, after a hearing for which the court must appoint a lawyer for the conservatee. If you have been advised or believe that the conservatee may be suffering from dementia, you should talk to your lawyer before you make any placement decision. **L**

In deciding where the conservatee should live, consider the conservatee's finances, desires, tastes, lifestyle, care or personal assistance needs, and medical condition. Most people prefer to stay in their own home rather than move into a care facility, but individual preferences vary. Determine where and how the conservatee would like to live, and see if those wishes make sense in view of the conservatee's needs and finances. Remember to check with the person who handles the conservatee's finances to find out what the conservatee can afford.

WAYS TO HELP THE CONSERVATEE LIVE AT HOME AS INDEPENDENTLY AS POSSIBLE

- If the conservatee owns his or her home, there are ways to borrow against it to pay for extra help needed to keep the conservatee at home. There also are ways to sell the home and allow the conservatee to live there as a tenant. Chapter 5, section 5.8, part G, explains these alternatives.
 - Hire part-time or full-time in-home aides to prepare meals, do laundry, help the conservatee take medicine, and perform other personal-care tasks.
 - Make changes to the building, such as replacing stairs with ramps or widening doorways to accommodate a wheelchair, walker, or hospital bed. You may have to move the conservatee temporarily during major cleaning or repairs.
 - Have the conservatee's home and yard thoroughly cleaned, to get rid of debris and unsanitary conditions.
 - Remove fire hazards and buy fire extinguishers and smoke detectors.
 - Have the locks changed or a security system installed, or both.
 - Contact the gas, electricity, water, garbage, and telephone companies to continue service.
 - If the conservatee is a renter, ask the landlord to make needed repairs.
 - Ask nearby family members, friends, and neighbors to look in on the conservatee and help with shopping or take the conservatee to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.
-

C. Moving the Conservatee to a Care Facility

The time may come when it is necessary because of physical or financial limitations to move a conservatee from his or her own home. This is a drastic step and should not be taken simply for the convenience of others. The decision must be based on the conservatee's needs, preferences, and best interests. Avoid making last-minute decisions by thinking through this possibility in advance. This kind of a change would require a level-of-care reevaluation and a pre-move notice to the court and persons close to the conservatee.

If you decide that the conservatee can no longer live at home, it is your responsibility to find the most appropriate living situation. To help you decide, do the following:

- Work with the conservator of the estate, a trustee of a trust of which the conservatee is a beneficiary, or the conservatee's spouse or domestic partner who is managing the conservatee's property to figure out how much the conservatee can afford to pay for care, housing, and other living expenses.
- Speak with the conservatee and his or her doctors and relatives to decide what kinds of help the conservatee needs each day. You also might consult an agency that can help with this assessment.
- Decide what type of facility can best take care of the needs you have identified.
- Contact a senior center or the local long-term care **ombudsman** program of the California Department of Aging for recommendations (see Appendix B, How to Find and Use Community Resources, at the back of this handbook).
- Visit the recommended care facilities, and use the Checklist for Selecting a Care Facility below.

The more care a facility offers, the more it costs to live there. For example, skilled nursing facilities are much more expensive than board-and-care homes.

TYPES OF CARE FACILITIES

- **Board-and-care facilities** provide a room, maid service, and meals. Sometimes they offer recreational opportunities or transportation assistance.
- **Intermediate care facilities** provide a room; meals and mealtime assistance; and help with dressing, bathing, grooming, and other personal hygiene and with medication management and other personal-care needs. Nursing care is available every day, but not around the clock.
- **Skilled nursing facilities** provide the services of an intermediate care facility plus physical and occupational therapy and 24-hour-a-day nursing care, supervised by a doctor.
- **Secured perimeter or locked facilities** provide the same types of services as board-and-care, intermediate care, and skilled nursing facilities, with the addition of a security system that prevents residents from leaving the facility. This type of facility is designed for people with dementia who otherwise might wander off the grounds and become lost while confused. The security systems range from simple locked doors or gates to a complex alarm system. These facilities can be chosen only when the conservatee needs this safety precaution and only when the court has given the conservator specific authority to place the conservatee in this type of facility.
- **Continuing-care retirement communities**, sometimes called *life-care communities*, offer a variety of living situations and levels of care. The community may have independent apartments or cottages with kitchens as well as a skilled nursing facility. There may be a dining room to serve residents in the independent living units, or meals may be delivered to residents. The community may offer maid service and other assisted-living services.

Care facilities must be licensed by appropriate state agencies. A license means that the facility meets minimum safety standards. Licensing inspectors visit the facility each year, and they respond to complaints about the care facility. If you choose a care facility, be sure it's licensed.

The California Department of Social Services licenses board-and-care homes. The California Department of Public Health licenses intermediate care and skilled nursing facilities.

The Continuing Care Branch of the California Department of Social Services also must certify a continuing-care facility whenever it promises to provide **life care** (usually personal care and health care) for more than one year in exchange for an entrance fee, monthly fees, or both. Check with this office before signing up with a continuing-care facility to make sure the facility is certified. It is very important to check the facility's financial stability to make sure it is financially strong enough to stay in operation long enough to fulfill its long-term promises.

For telephone numbers and other information regarding licensing and certification agencies for care facilities, see Appendix B, How to Find and Use Community Resources.

With respect to care facilities, remember:

- As with any change of the conservatee's residence, when you move the conservatee to a care facility for the first time, or when you move him or her to a different care facility, you must give the appropriate notice—the pre-move notice if the move is from the conservatee's personal residence, or the post-move notice if the move is from one care facility (that is not also the conservatee's personal residence) to another facility. See section 4.2, part E, later in this chapter.
- You may move the conservatee to a facility outside California only after first getting a judge's approval.
- You need a judge's approval before you may sell the conservatee's home or former home. This approval is in addition to the court's involvement in the sale process itself. See chapter 5 for more information about selling a conservatee's property.

CHECKLIST FOR SELECTING A CARE FACILITY

If you decide that the most appropriate, least restrictive setting for the conservatee is a care facility, visit recommended facilities to decide which one to choose. The following questions will help you find out about the facility. Many of these questions are reprinted with permission from the American Association of Retired Persons. Most of them apply to skilled nursing facilities, but you will find many of them useful in evaluating other kinds of care facilities as well.

GENERAL QUESTIONS

YES	NO	Ask the Facility Administrator:
<input type="checkbox"/>	<input type="checkbox"/>	Is the facility licensed by the appropriate state department? The license should be posted in an obvious place. (California Department of Social Services licenses board-and-care homes; California Department of Public Health licenses intermediate care and skilled nursing facilities).
<input type="checkbox"/>	<input type="checkbox"/>	If it is a skilled nursing facility, is the administrator licensed by the state Board of Nursing Home Administrators? The license should be posted in an obvious place.
<input type="checkbox"/>	<input type="checkbox"/>	If the facility is advertised as a life-care or continuing-care facility, does it have a valid certificate of authority from the Continuing Care Branch of the California Department of Social Services?
<input type="checkbox"/>	<input type="checkbox"/>	Have there been any citations by the licensing authority?
<input type="checkbox"/>	<input type="checkbox"/>	If so, have the problems been corrected?
<input type="checkbox"/>	<input type="checkbox"/>	Is the facility certified to receive Medicare and Medi-Cal payments? Ask for a copy of the facility's last certification report.
<input type="checkbox"/>	<input type="checkbox"/>	Does the facility offer rehabilitation therapies such as occupational, physical, and speech therapy?
<input type="checkbox"/>	<input type="checkbox"/>	Are residents allowed to wear their own clothes?
<input type="checkbox"/>	<input type="checkbox"/>	Are residents allowed to decorate their rooms?
<input type="checkbox"/>	<input type="checkbox"/>	Are residents allowed to keep some of their own possessions, including furniture?

- Is there a place for private visits with family and friends?
 - Are the visiting hours convenient for residents and visitors?
 - Is a list of residents' rights posted in an obvious place?
 - Are the rooms well ventilated? At what temperature are rooms kept?
_____°F
 - Can residents have a say in choosing roommates?
 - Are social services available to residents and their families?
 - Does the facility have recreational, cultural, intellectual, or religious activities?
 - Are there group and individual activities? Ask to see a schedule of events.
 - Are activities offered for residents who are confined to their rooms?
 - Is there an activities coordinator on staff?
 - Are residents encouraged—but not forced—to take part in activities?
 - Do staff members assist residents in getting from their rooms to activities?
 - Are residents encouraged to participate in activities outside the facility?
 - Do residents have the opportunity to attend religious services and talk with clergy in and out of the facility?
 - Are barber and beautician services available?
 - Does the facility provide transportation for residents?
- Does each resident have:
- A reading light?
 - A comfortable chair?
 - A closet?
 - A chest of drawers for personal belongings?

- | YES | NO | Ask Yourself: |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | If the facility is a locked or secured-perimeter facility, do you have the specific court authorization to place the conservatee in this type of facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility near the conservatee's family and friends? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility conveniently located on a bus route? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the atmosphere warm, pleasant, and cheerful? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a sense of fellowship among the residents? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility administrator courteous and helpful? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are staff members cheerful, courteous, and enthusiastic? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members show residents genuine interest and affection? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members seem attentive to residents' needs? (If they are watching TV, for example, they may not be attentive to residents.) |
| <input type="checkbox"/> | <input type="checkbox"/> | Do the residents look well cared for and content? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do staff members appear to treat residents with dignity and respect? (For example, do staff members knock before they enter residents' rooms?) |
| <input type="checkbox"/> | <input type="checkbox"/> | Do residents, visitors, and volunteers speak favorably about the facility? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility clean and orderly? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the temperature seem comfortable, and do the rooms seem well ventilated? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility reasonably free of unpleasant odors? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do bathing and toilet facilities offer adequate privacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a curtain or screen available to give each bed privacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a public telephone for residents' use? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is fresh drinking water within reach? |

- Is suitable space available for recreational activities?
- Are tools and supplies provided for recreational activities?
- Is there a lounge where residents can talk, read, play games, watch television, or just relax away from their rooms?
- Does the facility have a yard or outdoor area where residents can get fresh air and sunshine?
- Are there wheelchair ramps?
- Are toilet and bathing facilities easy for physically impaired residents to use?

SAFETY QUESTIONS

- | YES | NO | Ask the Facility Administrator: |
|--|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Is the furniture attractive, comfortable, and easy for physically impaired people to get into and out of? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there an automatic sprinkler system? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there portable fire extinguishers? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there automatic emergency lighting? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are the smoke detectors, automatic sprinkler system, and automatic emergency lighting in good working order? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there fire drills for staff and residents? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there a smoking policy for staff, residents, and visitors?
What is it? _____ |
| Are there nurse call buttons and emergency call buttons: | | |
| <input type="checkbox"/> | <input type="checkbox"/> | At each resident's bed? |
| <input type="checkbox"/> | <input type="checkbox"/> | At each toilet? |
| <input type="checkbox"/> | <input type="checkbox"/> | At each bathing facility? |

- | YES | NO | Ask Yourself: |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | Are smoking policy rules observed? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility free of obvious risks, such as obstacles, hazards, and unsteady chairs? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are there grab bars in toilet and bathing facilities and on both sides of hallways? Ask to see the bathrooms. |
| <input type="checkbox"/> | <input type="checkbox"/> | Do bathtubs and showers have nonslip surfaces? |
| <input type="checkbox"/> | <input type="checkbox"/> | Do all rooms open onto a hallway? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are exits clearly marked and exit signs illuminated? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are exit doors unobstructed and can they be unlocked from inside? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are doors to stairways kept closed? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the facility well lighted? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are hallways wide enough to allow wheelchairs to pass each other easily? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is an emergency evacuation plan posted in a prominent place? |

HEALTH SERVICE QUESTIONS

- | YES | NO | Ask the Facility Administrator: |
|--------------------------|--------------------------|---|
| <input type="checkbox"/> | <input type="checkbox"/> | In case of medical emergencies, is a doctor available at all times, either on staff or on call? Ask for the names of doctors on staff or on call. |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility allow residents to be treated by doctors of their own choosing? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents involved in planning their own care? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is confidentiality of medical records assured? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the facility made arrangements with a nearby hospital for quick transfer in an emergency? |

- | | | |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Is emergency transportation available? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the facility have an arrangement with a dentist to provide residents with routine or as-needed dental care? Ask for the names of dentists who provide care for residents. |
| <input type="checkbox"/> | <input type="checkbox"/> | Are pharmaceutical services supervised by a pharmacist? Ask for the pharmacist's name. |
| <input type="checkbox"/> | <input type="checkbox"/> | Does a pharmacist maintain and monitor a record of each resident's drug therapy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are residents allowed to choose their own pharmacy? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has a separate room been set aside for storing and preparing drugs? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is there at least one registered nurse (RN) or licensed vocational nurse (LVN) on duty day and night? |
| <input type="checkbox"/> | <input type="checkbox"/> | Is an RN on duty during the day, seven days a week? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does an RN serve as director of nursing services? |
| <input type="checkbox"/> | <input type="checkbox"/> | If the conservatee requires special services such as physical therapy or a special diet, can the facility provide them? |
| YES | NO | Ask Yourself: |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the conservatee's doctor willing to visit the facility? |

MEAL QUESTIONS

- | | | |
|--------------------------|--------------------------|---|
| YES | NO | Ask the Facility Administrator: |
| <input type="checkbox"/> | <input type="checkbox"/> | Are at least three meals served each day? |
| <input type="checkbox"/> | <input type="checkbox"/> | Are meals served at normal hours, with plenty of time for leisurely eating? Ask to see the meal schedule. |
| <input type="checkbox"/> | <input type="checkbox"/> | Are more than 14 hours scheduled between the evening meal and the next day's breakfast? |
| <input type="checkbox"/> | <input type="checkbox"/> | May I visit the dining room during meal time? |

Are nutritious between-meal and bedtime snacks available?
What is served? _____

Are special meals prepared for patients on therapeutic diets?

Can visitors join residents at meal time?

Is there a charge for visitors' meals?

YES NO Ask Yourself:

Ask to sample a meal. Does the meal that is served match the posted menu?

Are residents given enough food?

Do the meals look appetizing?

Does the food taste good?

Is food served at the proper temperature?

Is the dining area attractive and comfortable?

Do residents who need help eating receive it, either in the dining room or in their own rooms?

Is the kitchen clean and reasonably tidy?

Is food that should be refrigerated left standing out on counters?

Is waste properly disposed of?

Do kitchen staff follow good standards of food handling?

FINANCIAL QUESTIONS

YES **NO** **Ask the Facility Administrator:**

 Does the basic monthly fee include basic services?
What is not covered by the basic monthly fee?

 Is there a list of fees for specific services that aren't included in the basic rate?

 Is there a refund for unused days that were prepaid?

 Is there a minimum period (sometimes called a *private pay period*) before the facility will accept Medi-Cal?

YES **NO** **Ask Yourself:**

Does the contract between the resident and the facility clearly state:

 Costs?

 The admission dates?

 Services that will be provided?

 Discharge and transfer conditions?

 Is the cost comparable with that of other facilities?

D. Caring for the Conservatee in a Care Facility

If you move the conservatee to a care facility, it is still up to you to make sure that he or she gets proper health care, nutrition, social stimulation, grooming, and recreation. Visit the facility periodically. Review the conservatee's file with the nursing shift supervisor and speak with the doctors frequently to make sure the conservatee is being well cared for. If you think the conservatee isn't being cared for adequately or is being abused, contact the local long-term care ombudsman office for help.

For telephone numbers and other information regarding local long-term care ombudsman offices, see Appendix B, How to Find and Use Community Resources.

WAYS TO ENHANCE THE CONSERVATEE'S QUALITY OF LIFE AT HOME OR IN A CARE FACILITY

- Arrange a network of visitors. The more people who show concern, the happier the conservatee will be. Care facility staff are also often most attentive to those residents who have frequent visitors.
- If the conservatee has been active in a church or synagogue, arrange for congregation members or clergy to visit on a regular schedule.
- Decorate the area around the conservatee's bed with familiar objects. Care facility residents have the right to have personal belongings from home in their rooms.
- Place a bulletin board near the bed. Put up photos showing family and friends with the conservatee. Include photos of the conservatee at different ages and in happy times.
- Put diplomas, letters of appreciation that were written to the conservatee in earlier years, and other mementos on the bulletin board.
- Encourage family and friends to write letters and cards. Post them on the bulletin board and help the conservatee write back.
- Hire a part-time aide to help, to keep the conservatee company, or to take the conservatee on outings.
- Arrange for the conservatee to be taken out for activities such as day-care programs, described in section 4.7, part E, later in this chapter; entertainment; family gatherings; and beauty or barber services.
- Provide favorite foods and beverages.

- Provide a radio, stereo, television, DVR, or VCR, with a remote control, if the conservatee can't move around easily.
 - Rent or download old movies with the conservatee's favorite stars and show them on the DVR or VCR.
 - Provide ear plugs if the conservatee shares a room in a care facility.
 - Arrange for a telephone with a private line.
 - Arrange parties for the conservatee on birthdays and other special occasions. Have the conservatee act as host.
 - Thank the conservatee's caregivers often.
 - Nearby family members, friends, and neighbors often are willing to look in on the conservatee and help with shopping or take the conservatee to medical and dental appointments or on recreational outings. You might offer to pay their reasonable out-of-pocket expenses.
-

E. Keeping the Court and Interested Persons Informed of Moves by the Conservatee

You must keep the court and certain persons close to the conservatee informed of any changes of the conservatee's residence. Notice of these changes must be given in writing. Two kinds of notices are required, those that must be given before the move, referred to as *pre-move notices*, and those that may be given within a short period of time after the move, called *post-move notices*. Post-move notices are more common so they are discussed first.

Post-move notice. Every time the conservatee moves to a new residence in California, you must give written notice to the court of the change within 30 days of the date of the move. You give this notice by completing and filing a Post-Move Notice of Change of Residence of Conservatee or Ward (Judicial Council form GC-080). (A ward is a person under 18 years of age who is under guardianship. This form must also be used to give notice of changes of wards' addresses in guardianship cases.) A link to this form is included in Appendix F.

Within the same time period, before you file the original notice form, you must also mail copies of the completed form to the conservatee's spouse or domestic partner, the conservatee's lawyer, if any, and the conservatee's close relatives who were given notice of the hearing on the petition for your appointment as conservator, unless the court gives you

permission not to mail a copy to all or any of these people. (You do not have to mail a copy to the conservatee, however, because he or she has already completed the move.) You must fill out the second page of the form to show proof of mailing before you file the original form. If there are more persons to be notified than can be listed on the second page of the form, you may list the additional names on one or more pages of an attachment to the form, designated as form GC-080(MA). Your lawyer will have, or can get, copies of the change-of-address form and the attachment. Your lawyer will prepare these forms, see that the copies are mailed, and arrange for their filing with the court, so you must be sure your lawyer is informed before the conservatee's residence address is changed. **L**

If you don't have a lawyer, you will have to fill out and file the original form, identify the persons who are to be notified of the move, and mail copies of the completed form to those persons.

You must also notify the court of any change in your address or telephone number if you do not have a lawyer representing you. Your court may also require that you provide this information even if you are represented by a lawyer. The court may also require that you provide current statements of your address and telephone number, and those of the conservatee, with every accounting, even if the information has not changed. The court may have a local form for this purpose. If not, you may provide this information by letter. Even if the court does not require you to do so, it is a good idea to give written notice to keep your court informed of any changes in your address and telephone number.

If you write to the court, include the conservatorship case name and the court's case number on all correspondence. Address your letter to the clerk of the court, not to the judge. If you are in a large county, address it to the probate clerk. Send it to the address of the court where conservatorship hearings are currently held. (These locations may change from time to time. Try to keep track of any changes. If you have a lawyer, he or she will be aware of them.) **L** Send a copy of your correspondence to the court investigator's office. That office will usually be in the same location as the court, but you should check to make sure.

Pre-move notice. If the conservatee moves from his or her personal residence (see section 4.2, part B, above) or moves from a temporary residence (such as a hospital or other care facility after recovering from a physical injury or illness) to a new permanent residence that is not his or her former personal residence, you must advise the court and other interested persons *before* the move. You do not have to ask the court's permission before mak-

ing this move (unless you plan to move the conservatee out of California), but advance written notice must be given of your intent to make the move. You should consult closely with your lawyer before you decide to move the conservatee from his or her personal residence. Your lawyer will give the advance notice by completing and filing a Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward (Judicial Council form GC-079). He or she will mail copies of the completed form to the conservatee; the conservatee's attorney, if any; the conservatee's spouse or domestic partner; and the conservatee's relatives named in the petition for your appointment as conservator. **L**

Unless an emergency requires that shorter advance notice be given, the form must be filed and copies mailed at least 15 days *before* the planned move. If an emergency demands a shorter time of advance notice, an explanation of the emergency must be given.

If you don't have a lawyer, you will have to fill out and file the original form, identify the persons who must be notified of the move, and mail copies of the completed form to those persons. As with the post-move notice, an attachment for listing additional persons who are given notice of the move is available from the court. The attachment is designated as form GC-079(MA). See Appendix F for a link to these forms.

The pre-move notice gives the persons who receive it, including the conservatee and the conservatee's lawyer, an opportunity before the move is made to address the court about the move, question or oppose it, ask the court to delay or place restrictions or conditions on the move, or direct that improvements be made to the proposed new residence. You and your lawyer should consider discussing the proposed move informally with the persons who must be given notice of it well in advance, if possible, in an effort to improve their understanding of the need or other reasons for the move, and possibly to reach an agreement before you make financial, legal, or other commitments to make the move. On the other hand, you must be satisfied that the persons who must be given notice of the move have the best interests of the conservatee at heart before you discuss your plans with them. **L**

4.3 Keeping the Conservatee Healthy

Often conservatees have health problems that require medical care. Special health problems might include Alzheimer's disease, cancer, or alcoholism. Learn about the conservatee's particular health conditions so you know what to expect and how to help.

You may wish to consult a support group or organization that provides information about the conservatee's specific disease or disability. The list of health information organizations at the end of the next section includes toll-free phone numbers for many of the organizations.

A. Securing Health Insurance

Every conservatee should have health insurance, if possible. Make every attempt to obtain health insurance for the conservatee, including dental insurance. This coverage is particularly important after the enactment and full implementation of the federal Affordable Care Act, commonly referred to as Obamacare. Persons not covered by qualified group or individual medical insurance are subject to penalties administered through their income tax returns. Medicare and Medi-Cal participants are not subject to Obamacare noncoverage penalties, but care and consultation with experts on Obamacare requirements for conservatees not currently covered under one of these programs is essential.

Find out what kind of coverage the conservatee already has. If he or she has no health insurance, or if present insurance is inadequate, find out if the conservatee is eligible for additional or alternative coverage. Possible sources of coverage, in addition to private insurance plans such as health maintenance organizations (HMOs), include Medicare, Medicare Supplemental Insurance (Medigap), Medi-Cal, veterans' or retired military health benefits, and policies offered through Covered California (www.covered.ca.com) and AffordableCareCalifornia.org (www.affordablecarecalifornia.org). California Major Risk Medical Insurance is a last resource for persons who cannot obtain any other health insurance. It is limited in its annual and lifetime coverage. You should be careful not to cancel any existing health insurance coverage before you are certain you can replace it if you need to.

CAUTION: Be careful if you are considering a change in medical insurance. Make sure that any new medical plan will accept the conservatee and has the same benefits as the old plan or better.

The California Department of Aging sponsors the Health Insurance Counseling and Advocacy Program (HICAP), which can answer questions about health insurance for elderly people. You should discuss health insurance issues thoroughly with a HICAP health insurance counselor and with your lawyer before you commit to any course of action. **L**

For information about contacting HICAP, see Appendix B, How to Find and Use Community Resources.

For more information regarding health insurance, see Appendix A, Guide to Medicare, Medi-Cal, and Other Health Insurance.

If you are not handling the conservatee's money, contact the person who is. Find out what the conservatee can afford to spend on health insurance and who will file insurance claims, sign authorizations to release medical information, and keep the records necessary to make sure that all insurance payments are received.

HEALTH INFORMATION ORGANIZATIONS

Organization	Phone Numbers	Web Address
AIDS and HIV Information (CDC National AIDS Hotline)	1-800-342-AIDS	www.ashasexualhealth.org
Al-Anon	Check local directory and 1-888-425-2666	www.al-anon.org
Alcoholics Anonymous	Check local directory	www.aa.org
ALS Association (Lou Gehrig's Disease)	1-800-782-4747	www.alsa.org
Alzheimer's Association HelpLine	1-800-272-3900	www.alz.org
American Cancer Society	1-800-227-2345	www.cancer.org
American Diabetes Association	1-800-342-2383	www.diabetes.org
American Heart Association	1-800-242-8721	www.heart.org
American Kidney Fund	1-800-638-8299	www.akfinc.org
American Lung Association	1-800-586-4872	www.lung.org
American Parkinson Disease Association	1-800-223-2732	www.apdaparkinson.org
Arthritis Foundation	1-800-283-7800	www.arthritis.org
Brain Injury Association of America	1-800-444-6443	www.biausa.org
HICAP (California Department of Aging, Health Insurance Counseling and Advocacy Program)	1-800-434-0222	www.aging.ca.gov/hicap
Huntington's Disease Society of America	1-800-345-HDSA	www.hdsa.org
Muscular Dystrophy Association	1-800-572-1717	www.mda.org
National Kidney Foundation	1-800-622-9010	www.kidney.org
National Multiple Sclerosis Society	1-800-344-4867	www.nationalmssociety.org
National Parkinson Foundation	1-800-473-4636	www.parkinson.org
Veterans Health Administration Veterans Benefits Administration	1-877-222-VETS	www.va.gov/health ; www.va.gov/healthbenefits ; www.benefits.va.gov

B. Consenting to Medical Treatment

In most cases, the conservator and the conservatee share the right to make decisions about the conservatee's health care. In other words, you or the conservatee may authorize medical treatments. However, you may not arrange for a particular treatment if the conservatee objects to it.

If you think the conservatee is making a mistake by refusing treatment, talk to your lawyer about your options. **L**

Exclusive authority. A request for the conservator to have **exclusive authority** to make medical decisions for the conservatee is usually made in the initial petition for conservatorship. If this request was made in your petition for appointment, your Letters will show that you have this authority.

If you do not have this authority and at some point believe that the conservatee has lost the ability to make sound medical choices, you may have to petition the court to take away the conservatee's right to make medical treatment decisions and to give that right and responsibility solely to you. To do so, you must complete, sign, and file Judicial Council form GC-380, Petition for Exclusive Authority to Give Consent for Medical Treatment. The court's order granting that authority is filed on Judicial Council form GC-385, Order Authorizing Conservator to Give Consent for Medical Treatment. Links to both forms are included in Appendix F.

If the court grants your request for exclusive authority after your appointment, you would then need to prepare, sign, and ask the court clerk to issue a new set of Letters showing that you have this authority. Your lawyer would prepare and file the petition, obtain the court's order, and see that you receive your new Letters. **L**

You should give certified copies of your Letters showing your authority to the conservatee's hospital, doctors, and care facility. Often these people and institutions will be willing to accept or make a copy of a certified copy for their files.

The authority to make health care decisions for the conservatee is very important and should not be taken lightly. Try to involve the conservatee in your decisions and respect his or her desires as much as possible. Talk with the conservatee's family and friends to figure out how the conservatee would want things arranged if he or she is unable to tell you directly.

Treatment of dementia. A conservator must obtain specific authorization from a judge to give exclusive consent for the treatment of dementia by the use of **psychotropic drugs**. These drugs may be prescribed by a psychiatrist, by the conservatee's regular physician, or in some cases by a psychologist within the scope of his or her license to practice. It is important for the conservator to conduct a regular review of this type of treatment, with all the conservatee's doctors, to monitor carefully the effect that such drugs may have on the conservatee.

Spiritual healing. If the conservatee practices a religion that relies on prayer alone for healing, the conservatee's religious beliefs must be respected. You should speak with your lawyer about how to observe these beliefs while you take care of the conservatee's health needs. **L**

Use of life support. The decision to use or withdraw life support is a difficult and sensitive one. If you are faced with this issue, talk with your lawyer, the conservatee's doctor, the hospital, and family members to help you decide what to do. **L**

Advance health care directive. Check to see if the conservatee has signed an **advance health care directive**, which includes individual health care instructions as informal as a handwritten note, and also a very formal document called a **power of attorney** for health care, which can be made effective when signed or only when the primary physician for the principal (here, the conservatee) determines that the principal is unable to make his or her own health care decisions. (A power of attorney for health care with the latter option or that states that it remains effective after the person signing it, the principal, has lost the mental capacity to make health care decisions is sometimes called a *durable power* because it remains effective after the person signing the document has lost that capacity.)

Another commonly seen individual health care instruction is a one-page document, sometimes called a **living will**, that gives instructions concerning the conservatee's maintenance on life-support devices.

If the conservatee has chosen someone to make medical decisions when he or she has become unable to make them, that person has the exclusive power to make the medical decisions for the conservatee spelled out in the directive or instructions unless the court takes away that power. The conservatee's use of an advance health care directive may limit or take away completely the conservator's authority to make such decisions. As conservator, you must respect the conservatee's wishes. The directive may also describe the conservatee's intended or completed funeral and burial arrangements.

You should keep a copy of the directive and learn who has the original. The conservatee's hospital and doctors should be given a copy, and if the conservatee is in a care facility, make sure the facility has a copy, too. If you think that the person who was chosen to make health care decisions is not acting in the conservatee's best interests, you may have to petition the court to revoke that person's directive. If you are represented by a lawyer, check with your lawyer to learn what you can do. **L**

Following are medical treatments for which you can never give consent:

- You may not have the conservatee sterilized; only a judge may make that decision.
- You may not make the conservatee have mental health treatment if he or she objects, unless you have been given exclusive authority to make health care decisions for the conservatee.
- You may not place the conservatee in a mental health treatment facility against his or her will, even if you do have exclusive authority to make health care decisions for the conservatee.
- You may not authorize electroshock therapy.
- You may not authorize the use of experimental drugs.
- You may not authorize involuntary administration of psychotropic drugs to treat dementia without specific court authority.

C. Working with Doctors and Pharmacists

It is your responsibility to understand the care that is being given and why. Don't consent to treatment unless you feel fully informed. Even if the treating physician has been the conservatee's doctor for a long time, you are still the legally responsible person.

See "Tips for Working with Doctors and Pharmacists" below.

D. Improper Medicines and Dosages

Make sure that the conservatee is not being given medication just for the caregiver's convenience, to keep the conservatee "easy to manage." It is not right to drug people to make them docile or to stop their complaining.

Older people may need smaller and less frequent dosages of many medicines than do younger people. This is because people's bodies slow down as they age, and many medicines stay in the system longer. The conservatee's doctor may have to adjust the dosage of prescribed medicines for this reason. Ask the doctor to tell you what symptoms might indicate that a dosage of prescribed medication is too strong for the conservatee.

TIPS FOR WORKING WITH DOCTORS AND PHARMACISTS

- Let the conservatee's health care providers know that they should contact you about any medical matters, and talk with them regularly. When you can't reach the doctor, the nurse or physician's assistant may be able to keep you informed.
- Find out how often the conservatee should see the doctor.
- Be sure you know if the conservatee should be on a special diet or needs to avoid any particular food.
- Review the doctor's plan for treating the conservatee, and ask why a treatment is needed. Think about the long-range effects. Ask if the doctor has considered other treatments. If you have any doubts, get a second opinion from another doctor.
- Make sure that all the conservatee's doctors are in contact with one another and are aware of each other's treatments of the conservatee.
- You have the right to change the conservatee's doctor or to get another opinion. Consider, however, how the change will affect the conservatee. If you do change doctors, make sure that the new doctor sees all the conservatee's medical records.
- Know what medicines the conservatee is taking.
- Learn what side effects these medicines could cause, how to control them, and what kinds of reactions should be reported to the doctor at once.
- Take all of the conservatee's medicines to the pharmacy. Ask the pharmacist if the prescriptions are current and whether this combination of medicines could cause a bad reaction.
- Set up a system for keeping track of the conservatee's use of medicines. You need to be sure that the conservatee is taking the proper dosages at the right times. "Tips for Working with Aides" later in this chapter has more information about how to do so.

A doctor should examine an older person who is taking medicine at least once a month. You should talk to the doctor to find out

- what the examination showed,
- what medicines are being given,
- how long the medicines are to be given,
- the reasons for giving the medicines, and
- how the medicines may affect the conservatee.

If you are not satisfied with the answers, get a second medical opinion.

E. Arranging Dental Care

Make arrangements for the conservatee to have regular dental care. Regular dental care is important because healthy teeth or well-fitting dentures allow the conservatee to eat well-balanced meals. If the conservatee wears false teeth, he or she should see a dentist periodically to have the dentures relined.

If someone else handles the conservatee's money, find out whether the conservatee has dental insurance and, if so, the services that it covers.

Many older people have had negative, even frightening, experiences with dentists. Dental practice today is much improved over what the conservatee may remember and emphasizes relieving pain and preserving, rather than removing, teeth. If the conservatee expresses fears about going to a dentist, do the following:

- Find a dentist who has a good reputation for caring for older people.
- Set up an appointment for the conservatee just to meet the dentist.
- Ask the dentist to ease into difficult treatments by doing the simple, less painful work first.

F. Obtaining Hearing Aids, Eyeglasses, and Other Devices

You may significantly improve your conservatee's quality of life by making sure that he or she has all the aids needed and readily available to enhance enjoyment of many ordinary daily activities or even to make them possible. The following are examples of common situations in which a very small action by you may make a tremendous difference to your conservatee.

Hearing aids. If the conservatee has hearing problems, make sure he or she has a properly working hearing aid with good batteries. A good hearing aid can help the conservatee stay aware of his or her surroundings and stay connected to other people, especially in a care facility. Some conservatees need to be encouraged to wear their hearing aids regularly. If the conservatee won't use the hearing aid, try to find out why. It may need an adjustment to fit comfortably or to work at the right sound level.

Eyeglasses. Well-fitting, frequently cleaned eyeglasses with the right prescription and comfortable frames help the conservatee get around without injury, recognize familiar faces, and read or watch television independently. Prescriptions for eyeglasses should be rechecked every two years.

Other devices. The conservatee may need special equipment to carry out daily living activities independently or with a little help. Special equipment includes

- walkers,
- canes,
- wheelchairs,
- equipment for eating or reading,
- commodes,
- colostomy bags, and
- oxygen.

Many of these things may be available through the conservatee's medical insurance carrier. Otherwise, they may be rented or bought from medical equipment and supply companies. Check your local Yellow Pages or online under "Medical Equipment and Supplies."

G. Caring for Feet

Proper foot care helps the conservatee get around with only a little help or no help at all. As people grow older, their nails become tougher and grow faster and become harder to care for without aid. Foot care is especially important if the conservatee has diabetes or circulatory problems. Although the pain of circulatory problems can make walking difficult, these problems can be treated and sometimes healed completely.

H. Encouraging Personal Cleanliness and Grooming

It can be hard for impaired people to stay clean and well groomed. Tactfully figure out how to help. Don't criticize or embarrass the conservatee. Give him or her good reasons to change clothes, such as special occasions, photographs you want to take for the family, and compliments.

Bathing. If the conservatee forgets or refuses to bathe, try to find out why. Is he or she afraid of slipping or falling? Do physical limitations make it hard to bathe? Is the bathing area warm enough? Does the conservatee feel that there's no one or nothing to clean up for?

WAYS TO ENCOURAGE CLEANLINESS

- ▶ Install grab bars in the bathtub or shower, or provide a shower seat.
- ▶ Make sure the bathing area is well heated.
- ▶ Remind the conservatee to bathe.
- ▶ Hire an in-home aide who will help the conservatee bathe and who will trim fingernails and toenails, although help with nail trimming may be increasingly hard to find because of aide-agency concerns about possible liability issues. Think about whether the conservatee would prefer a male or female aide.
- ▶ Provide incentives such as a shopping trip or dinner out.
- ▶ Make sure the conservatee has soap, shampoo, a comb or hairbrush, a toothbrush, and toothpaste. Some people may also want bath salts, mouthwash, cosmetics, or shaving supplies.

Bladder and bowel control. If the conservatee is incontinent, make sure he or she has an adequate supply of disposable undergarments. To prevent accidents, schedule regular trips to the toilet.

4.4 Maintaining a Good Diet

Good nutrition means eating right to stay healthy. The conservatee needs a good diet to feel well. If the conservatee doesn't eat enough good, fresh food every day, he or she may become weak and have trouble walking or staying alert and awake. Medicines may not work as well. The conservatee may become depressed or confused or may have hallucinations.

An important part of your job is to keep track of how much and what the conservatee eats. See "Ways to Help the Conservatee Eat Well at Home" and "Ways to Help the Conservatee Eat Well in a Care Facility" later in this chapter. A good diet contains bread and cereal, dairy products, fresh fruit and vegetables, and meat or meat substitutes such as cheese or beans.

A. Arranging Special Diets

Many conservatees have medical problems that require special foods, specially prepared foods, or both. For example, low-salt and low-fat diets are two kinds of special diets.

Ask the conservatee's doctor or a nutritionist about the conservatee's special needs. Organizations such as the American Heart Association and the American Diabetes Association have information about special diets. Refer to the list of health information organizations at the end of section 4.3, part A, earlier in this chapter. You may want to check bookstores and libraries for books with recipes for special diets.

B. Watching for Problems That May Lead to Poor Nutrition

People often stop eating well when they have a problem. You and others who see the conservatee regularly—personal-care aides, for example—should pay attention to any changes or problems in the conservatee’s life that could lead to poor nutrition, such as

- loneliness,
- depression,
- stress or agitation,
- the death of a loved one,
- fear of spending money,
- lack of money,
- memory problems that prevent the conservatee from remembering whether he or she has eaten,
- fear that food is poisoned,
- too much alcohol consumption,
- medicines that take away the conservatee’s appetite or make the conservatee feel nauseous,
- false teeth that don’t fit,
- a lack of interest in shopping for food or cooking, or
- an inability to shop or cook.

WAYS TO HELP THE CONSERVATEE EAT WELL AT HOME

- Ask the conservatee which foods he or she likes.
 - Learn about the conservatee's special eating problems. For instance, people with tender teeth or gums can't chew hard food. People with stomach problems may feel ill after eating a large meal or hard-to-digest foods.
 - Be sure the conservatee has enough fresh food on hand that he or she likes and can prepare and eat easily.
 - Check the refrigerator regularly, and remove old, spoiled, or stale foods.
 - Arrange for somebody—you or a friend or neighbor—to be with the conservatee for at least one meal a day. Loneliness at meal times can hurt the appetite.
 - Provide transportation to a senior nutrition site where meals are served.
 - Arrange for Meals on Wheels or a similar program to deliver one meal a day. Find out whether the conservatee eats most of this meal.
 - Provide nutritious snacks. Some people do better with smaller, more frequent eating. Include soft fruits or juices and whole-grain cereals.
 - If there is an aide in the conservatee's home, ask that person to write down what and how much the conservatee eats and drinks. See "The Communications Notebook" at the end of section 4.7, part C, later in this chapter.
-

WAYS TO HELP THE CONSERVATEE EAT WELL IN A CARE FACILITY

- Visit the conservatee at meal times to see what is being offered and how it is served.
 - Ask the facility administrator for a meal so that you can eat with the conservatee.
 - Review the conservatee’s medical chart to see how much and what types of food the conservatee is eating. This is very important if the conservatee has special dietary needs or can’t feed himself or herself.
 - See whether a record is being kept of the conservatee’s weight gain or loss.
 - Ask about dietary supplements if you think the conservatee is eating poorly. Liquid supplements can be helpful.
 - Take along the conservatee’s favorite foods and beverages when you visit.
 - Take the conservatee out for meals and picnics.
 - Put a small refrigerator in the conservatee’s room, if it’s allowed, and keep it stocked.
 - Think about the conservatee’s culture when you provide food. Does the conservatee want kosher, Chinese, or vegetarian dishes?
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4.5 Providing Clothing

Clothing may create special problems. The conservatee may

- gain or lose so much weight that clothes no longer fit;
- have clothing that needs to be repaired, altered, washed, or dry cleaned;
- change clothes infrequently;
- refuse to buy new clothes or be unable to afford them;
- mix things up—for example, wear underwear on the outside or clothes that aren’t right for the weather or occasion; or
- wear shoes that hurt so much that he or she may refuse to walk.

CLOTHING TIPS

- Make a list of the conservatee's clothes, including shoes and underwear.
 - Don't discard anything without considering the conservatee's wishes.
 - Write down what clothes the conservatee needs, making sure you know the right sizes.
 - Look through catalogs with the conservatee to learn which colors and styles he or she likes.
 - Consider buying clothing in a limited number of colors so most of the clothes will match.
 - Take the conservatee shopping during the least busy times.
 - Look through a medical supply catalog for impaired people to find clothing that's designed to be easy to get on and off.
 - Buy properly fitting shoes that are comfortable and safe for walking.
 - Make sure the conservatee has clothes that are appropriate for various activities.
 - Lay out outfits for the conservatee to wear on special occasions.
 - Help the conservatee get dressed, or arrange for an aide to help.
 - Arrange for regular washing and dry cleaning of the conservatee's clothes.
 - Place compatible clothes together on hangers or in dresser drawers.
 - If the conservatee lives in a care facility, label all clothes, shoes, and other property with the conservatee's name to prevent theft.
 - If the conservatee lives in a care facility, ask the facility administrator whether a staff person, shopping service, or volunteer is available to shop for clothes. If so, provide a list of the conservatee's sizes and preferred colors and styles.
-

4.6 Arranging Recreation and Social Contact

A conservatee may be able to continue activities and hobbies that have brought pleasure for many years. Chat with the conservatee and friends or family to find out what things the conservatee likes and still may be able to do. If the conservatee can't do things that he or she enjoyed doing in the past, such as dancing, suggest new activities such as playing card games or checkers or listening to the radio.

A. Providing Reading Material and Eyeglasses

If the conservatee likes to read, make sure that he or she has interesting things to read, properly fitted eyeglasses for reading, and a good reading light. If the conservatee's eyeglasses are old, set up an eye examination. Find out which magazine subscriptions the conservatee has and whether he or she wants them renewed. Large-print books and magazines and books on audiotape can be found in many libraries and bookstores.

B. Helping the Conservatee Enjoy Music

Make sure that a radio or stereo is available if the conservatee enjoys music. If the conservatee has trouble hearing, be sure he or she has a properly working hearing aid with good batteries, and encourage the conservatee to use it. Give the conservatee earphones if he or she shares a room.

C. Encouraging Contact with Family and Friends

When a person becomes a conservatee, he or she does not lose the right to visit with friends or family. Encourage the conservatee to keep in touch with family members, friends, and neighbors. You or someone else may need to help the conservatee write letters or make phone calls. Encourage family and friends to visit and write back, and suggest that they take the conservatee on regular outings and trips. Even extremely impaired people enjoy going to a restaurant or a park or out for a drive.

Do not isolate the conservatee by keeping friends or family away. However, if someone continually upsets the conservatee or the household in which he or she lives, or if you believe someone may be attempting to take advantage of or harm the conservatee, contact your lawyer to find out how you may ask a judge to restrict that person's access to the conservatee. **L**

D. Arranging Outings and Trips

The conservatee may enjoy outings and trips. Many California conservatees were born and raised in other parts of the country, and they enjoy going home. For others, travel has been an important experience in their lives.

An important early consideration is whether the conservatee can afford to travel. Conservatee travel arrangements tend to be more complex, and more expensive, than other travel arrangements. Someone may need to accompany the conservatee. There may be questions about who will pay for travel and lodging costs for persons other than the conservatee. The conservatee must be physically able to travel and may need to have a number of special accommodations.

Consider the benefit that the conservatee will receive from travel, and consult the conservatee's doctor and your lawyer before arranging a trip. Court authorization or medical clearance, or both, may be necessary. **L**

E. Finding Structured Activities Away from Home

Organized by community agencies, structured day activities such as adult day health care, adult social day care, and senior centers help maintain the conservator's physical and mental health. A number of these programs and services are described in section 4.7, which follows.

4.7 Tapping Helpful Resources

Several community service agencies are available to help conservators in carrying out their duties to conservatees, especially in urban areas. Some provide free services, while others charge fees based on the conservatee's **income**.

See Appendix B, How to Find and Use Community Resources. This appendix provides more information about locating the local services and resources described in this section.

Ask the court for its local supplement. Many superior courts have a local supplement to this handbook, which may have additional information about local court requirements, and many also have important information about local community resources that may be available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure you have all of the local materials you need.

A. Case Management Services

Case managers can help you figure out what types of assistance the conservatee needs and refer you to personal, health, mental health, and social services. Case management and assessment services may be especially helpful to you in preparing your plan of conservatorship, and case managers can help you carry out your plan. These services may be provided in your area by private professionals and by community-based agencies.

B. Meal Services

Services such as Meals on Wheels deliver food to the homes of elderly people who can't or won't cook for themselves—or who won't leave home. In many communities, public agencies run group dining rooms that provide meals and social contact. Transportation often is available to take people to these meal sites.

C. Homemaker, Home Health, and Personal-Care Services

Trained in-home aides are helpful for conservatees whose problems do not require nursing care or 24-hour supervision. They can help with household chores, personal care, and health care and can keep the conservatee from hurting himself or herself. They may clean the house, do the laundry, shop for food, or cook. They also may feed, bathe, groom, and dress the conservatee; care for prosthetic devices; and help the person get around. See “Tips for Working with Aides,” later in this chapter, for ways to get the best help from an aide.

Sometimes conservators and conservatees are reluctant to hire an in-home aide because they worry that the person may steal the conservatee's money or possessions. Some conservatees feel that anyone would steal from them, and they readily accuse others of theft, even when nothing is missing. The tips in chapter 5, section 5.8, part A, “Ways to Protect the Conservatee's Valuable Possessions,” can help you put your mind at ease.

Medi-Cal or Medicare may pay for some home health services. In-home help is available to frail, low-income people without charge from the In-home Supportive Services Program of the county Department of Social Services or from individuals and agencies on a fee-for-service basis.

You are responsible for giving instructions and making sure that the aide follows them. Before you hire an aide, you and the conservator of the

estate must agree on all details of hiring, paying, and monitoring in-home assistants. You can directly find, hire, pay, and supervise an aide to help the conservatee. Or you can go through an agency that will recruit, hire, pay, and supervise the aide for you.

Agencies. Usually a full-service homemaker, home health, or personal-care agency recruits, hires, and pays aides who are employees of the agency. Using an agency can save you time and bother.

An agency screens applicants and checks their references and U.S. residency status. The agency withholds income and other taxes from the aide's wages. It provides all required insurance, such as workers' compensation, and it bonds the aide. The agency supervises the aide, taking disciplinary action or terminating the employee if necessary, and it will send a temporary replacement aide if the regular aide is ill or otherwise unable to work.

For these services, you pay the agency a fee that covers both the aide's wages and the agency's expenses and profit. Since the aide continues to be the agency's employee, you are not allowed to hire the aide directly without the agency's permission. The agency may charge you a fee if you wish to hire the aide away from the agency.

Hiring directly. You can hire an aide through a registry. For a fee, registries will give you a list of aides to interview. If you hire one, you will be the employer, not the registry. You should be very careful here. The law governing in-home health care workers has seen many changes recently, including how workers are paid, hours they can work, and overtime. Your lawyer should be familiar with these changes. **L**

Or you can find an aide through a friend or community service organization's referral, an ad, or some other way. If you hire an aide directly, you will have a number of responsibilities as an employer, including paying taxes, checking the person's immigration status, and obtaining workers' compensation insurance. See chapter 5, section 5.8, part J, Hiring and Paying Aides for the Conservatee, particularly the checklist, for more information on hiring and employing aides. If you intend to hire an aide directly, consult with your lawyer concerning employer responsibilities and liabilities. **L**

TIPS FOR WORKING WITH AIDES

- Make up a list of specific tasks for the aide to do, including the times that these tasks should be done.
 - Go over the list with the aide to make sure it's clear.
 - Check periodically to make sure the tasks are being done properly and on time.
 - Show the aide where you've posted instructions for emergencies. Include phone numbers for the conservatee's doctor; the hospital; your workplace and home; and fire, police, and ambulance services (911).
 - Show the aide where to find the conservatee's Medicare card and any other health insurance cards.
 - Tell the aide what he or she may buy for the conservatee; ask the aide to keep receipts and pay back the aide promptly.
 - If you, not an agency, pay the aide, pay him or her promptly at the end of the pay period.
 - Have a backup plan if the aide is sick or can't work for any reason. Make sure that the aide notifies you and not the conservatee if he or she can't work on a particular day or shift.
 - Although only a licensed vocational nurse or other licensed health professional may dispense prescription medicines, other attendants may assist the conservatee and remind the conservatee to take his or her medicine.
 - Set up a notebook to keep track of doctors' instructions, medications, and the conservatee's activities. Ask each aide to make regular entries in the notebook and to read it every day for new instructions. See the "Communications Notebook," below, for an example of such a notebook.
 - Regularly read the notebook so that you know what is happening in the conservatee's everyday life.
-

D. Senior Centers

Senior centers offer a variety of daily activities, which may include card games, travelogues, movies, dances, exercise classes, and day-long bus trips to nearby places of interest. Many senior centers provide one or more hot meals each day for a small fee.

E. Adult Social Day Care Programs

Adult social day care provides planned, supervised social, recreational, and nutritional services for adults who need some supervision. Activities may include cooking; exercise classes; practice in daily living activities; arts and crafts; art, music, poetry, and movement therapies; memory training; and current events discussion groups. Meals or snacks usually are included in the fee. Insurance policies rarely pay for adult social day care.

F. Adult Day Health Care Services

Adult day health care (ADHC) is useful for people such as stroke victims who are mobile but may need physical, speech, or occupational therapy or other services. Medi-Cal may pay for ADHC services because ADHC centers are staffed by health care professionals.

G. Day Programs for People with Developmental Disabilities

Several types of day programs are designed to meet the needs of adults with developmental disabilities:

- **Activity centers.** Activity centers teach the basic skills that a developmentally disabled person needs to work, to integrate into the community at large, and to advocate for himself or herself.
- **Adult development centers.** Adult development centers teach people with developmental disabilities basic self-help skills such as how to interact with others, how to make their needs known, and how to respond to instructions.
- **Behavior management programs.** These programs focus on behavior problems that prevent a person with a developmental disability from participating in other day programs.
- **Independent living programs.** These programs teach skills that a person with a developmental disability needs to live independently.
- **Social recreation programs.** These programs offer leisure and recreational activities that integrate people with disabilities into the community at large.

THE COMMUNICATIONS NOTEBOOK

It is important that you and the conservatee's aide share significant information about the conservatee's health, condition, and activities. A communications notebook is a great way to do so.

Buy a three-ring loose-leaf binder and set up three separate sections:

- Log of Doctors' Instructions
- Medications Log
- Activity Log

Make sure that every aide checks the notebook every day for new information, and make sure that the aides make daily entries in each section, as appropriate. Look over the notebook every time you visit the conservatee.

SECTION 1: LOG OF DOCTORS' INSTRUCTIONS

Every time the conservatee sees a doctor, the person who accompanies the conservatee, whether you or an aide, should write down any instructions the doctor gives. The log for this section of the notebook should include the following items of information, for example, in a separate column for each item:

- Date of instructions.
- Name of doctor who gave instructions.
- Instructions. The person accompanying the conservatee must write down the instructions in detail and read them back to the doctor to make sure they are correct. The doctor will likely give instructions regarding medicines, such as their timing, dosage, and duration; the type and frequency of recommended exercise or physical therapy; the frequency and manner of changing surgical dressings or taking vital signs; or the date, location, and preparations for scheduled tests, examinations, or other medical procedures. The person recording the instructions should sign his or her name or initials to each entry.

Section 1: Doctors' Instructions

Date	Doctor	Instructions
2/14/12	Dr. Moore	Soak conservatee's left elbow in warm water for 15 minutes twice a day (9 am, 3 pm).
2/16/12	Dr. Patel	Continue giving conservatee one 10 mg tablet of amitriptyline three times a day (8 am, 2 pm, 8 pm) until further notice.
		Continue giving conservatee one 20 mg tablet of Septra two times a day (10 am, 4 pm) until 2/22/12. Continue giving conservatee one 100 mg tablet of Theragram M Multivitamin after breakfast.

SECTION 2: MEDICATIONS LOG

When anyone gives medicine to the conservatee, whether prescribed or over-the-counter, that person should record the details in a medications log. This log should include the following items of information, for example, in a separate column for each item:

- Date and time medication given.
- Name of medication and amount or dosage given.
- Comments, including notes of any refusal to take medication, any medication dosages accidentally skipped, and any unusual reactions to the medication (nausea, dizziness, behavior changes, changes in vital signs, and so on).
- Name or initials of person who gave medication.

Section 2: Record of medications

Date	Time	Medications Administered	By Whom	Comments
2/15/12	8:05 am	1 tablet Elavil	Connie	
2/15/12	8:25 am	1 tablet Theragram	Connie	
2/15/12	10:02 am	1 tablet Septra	Connie	
2/15/12	11:25 am	1 tablet aspirin	Connie	
2/15/12	2:03 pm	1 tablet Elavil	Connie	
2/15/12	4:02 pm	1 tablet Septra	Susan	
2/15/12	8:03 pm	1 tablet Elavil	Susan	
2/15/12	9:06 pm	1 tablespoon cough syrup	Susan	

SECTION 3: ACTIVITY LOG

Each aide should record details about the events that occurred during each shift. This log should include the following items of information, for example, in a separate column for each item:

- Date and time of event or shift.
- Name or initials of person making the entry.
- Details about activity or condition of conservatee. Details should include, depending on the conservatee’s current physical and mental condition and circumstances, observations about the conservatee at the beginning of the shift, such as what the conservatee was doing; what (and how much) he or she ate and drank; bathroom visits and results; and what he or she did during the shift. It should mention events occurring during the shift, such as telephone calls or visitors. And it should describe any changes in the conservatee’s condition, behavior, or mood.

Section 3: Activity Log

Date	Time	Aide	Activity
2/15/12	7:15 am	Connie	Conservatee awakened, washed, and dressed
2/15/12	7:35 am	Connie	Prepared breakfast per weekly menu.
			Conservatee ate all of toast, half of
			oatmeal, half a glass of juice, and half a
			banana. Conservatee in bed.
2/15/12	8:30 am	Connie	Barbara Lewis called conservatee, who
			appeared to be upset by call.
2/15/12	8:45 am	Connie	Conservatee voided approximately 300 cc,
			was washed. Changed underpads on bed.
2/15/12	9:05 am	Connie	Soaked conservatee’s elbow in warm water
			for 15 minutes, followed by 10 minutes of
			exercise and massage.
2/15/12	9:35 am	Connie	Gave conservatee 4 ounces of cranberry
			juice. Drank half.

Section 3: Activity Log

Date	Time	Aide	Activity
2/15/12	9:40 am	Connie	<i>Read newspaper to conservatee (in bed) for 35 minutes and discussed sports results.</i>
2/15/12	10:15 am	Connie	<i>Conservatee began one-hour nap.</i>
2/15/12	11:30 am	Connie	<i>Dr. Patel visited (see doctor's new instructions).</i>
2/15/12	12:05 pm	Connie	<i>Conservatee drank half of 4 ounces of water.</i>
2/15/12	12:30 pm	Connie	<i>Prepared lunch per weekly menu. Conservatee ate 3/4 of tuna, all of the grapes, half a glass of milk, and half a piece of pie.</i>
2/15/12	3:00 pm	Susan	<i>Soaked conservatee's elbow in warm water for 15 minutes, followed by 10 minutes of exercise and massage.</i>

H. Transportation Services

In many communities, public or private agencies offer transportation for people who have trouble getting around because of physical or mental problems. Specially equipped vehicles may be available that can be scheduled to pick up the conservatee and take him or her to medical and social service appointments. Some agencies furnish an escort who can take the conservatee to an appointment or to the park or a shopping mall.

If the conservatee can get around alone, buy a bus pass or taxi coupons for his or her use. Doing so lets the conservatee travel independently without carrying cash.

I. Personal Contact Programs

Some agencies will phone people who are confined to their homes, or they will send someone on a regular basis (a “friendly visitor”) to visit them to see how they are doing and to make personal contact. This is called *social reassurance*. Some agencies offer free services; others charge a fee. Or you can ask neighbors and friends to stop by and to call.

J. Emergency Response Devices

Electronic emergency response devices allow a person to alert someone to an emergency in the home—for example, if the person has fallen and can’t get up. Some of these systems are for sale; others can be rented by the month. Hospital social service departments may offer this service or be able to refer you to a reputable company.

K. Counseling

A conservatee’s emotional state affects how well he or she performs daily. Many conservatees are depressed, and counseling can help them lead happier lives. Counseling may be available through community organizations such as family service agencies, mental health clinics, or hospitals.

L. Respite Care: Giving the Caregiver a Break

Caring for dependent people can be exhausting; those who do need to take time off now and then. Hiring help or sending the conservatee to a day care center or to stay in a care facility for a short time can give the caregiver a break.

This is called *respite care*, and it can last from a few hours to a few weeks. It may offer the conservatee a welcome change as well. The Department of Veterans Affairs, some board-and-care homes, and some nursing homes offer respite care, and regional centers may make referrals for respite care.

M. Work-Training Programs

The California Department of Rehabilitation offers vocational rehabilitation services for people with physical or mental disabilities. These services are designed to help people with disabilities work at full-time or part-time jobs.

The Department of Rehabilitation provides the following services:

- Counseling
- Job placement
- Job training
- Rehabilitation
- Transportation
- Attendants
- Specialized equipment and devices

The department also provides supported employment services to help people with severe disabilities work in the general community. For example, the department might arrange for an aide to help the person get to and from work.

State-funded regional centers (see chapter 3, section 3.6) arrange work-training programs geared to the special needs of people with developmental disabilities.

N. Schools and Colleges

Check with the local high school and community college to find classes that may benefit the conservatee. For example, a local community college may offer a stroke recovery program.

See if there are any other classes that interest the conservatee. Some community colleges and adult education programs offer exercise, art, music, psychology, and other classes off campus in retirement communities and at senior centers.

School districts must provide special educational programs and services to people with disabilities until they turn 22. The unique needs of each disabled student must be met with specially designed instruction and with services that are needed to help the student get an education, such as transportation, speech therapy, physical therapy, and counseling.

4.8 Protecting the Conservatee from Harm

Unfortunately, those with physical and mental problems sometimes are abused or neglected. Be on the lookout for signs that the conservatee is not being cared for properly or is being mistreated. Sometimes unexplained bruises or injuries, trouble sleeping, poor personal hygiene, or fear of a particular person or place may be signs of a problem.

If you are concerned that the conservatee may have been abused, neglected, or overmedicated in a care facility, do the following:

- Talk to care facility staff or the administrator.
- Speak with the conservatee's doctor or pharmacist about the problem.
- Complain to the care facility's licensing agency or the local long-term care ombudsman program office. Appendix B, How to Find and Use Community Resources, lists these resources.
- Ask your county's social services department or the police for help.
- Think about moving the conservatee to another facility.

4.9 Keeping the Conservatee from Causing Harm

It is your responsibility to take whatever reasonable steps you can to stop the conservatee from hurting someone or damaging someone else's property. Your lawyer can suggest courses of action. **L**

For example, if the conservatee has a driver's license, but you have seen the conservatee drive dangerously, you should do the following:

- Let the conservatee's doctor know so that he or she can provide the appropriate information to the Department of Motor Vehicles so that it can start the process of canceling the conservatee's driver's license.
- Consider having the conservatee's vehicle disabled so that he or she can't use it. Consider also storing the vehicle where the conservatee can't get it, or even selling it before it depreciates, if the conservatee will not be using it in the foreseeable future. Coordinate storage or sale with the conservator of the estate, if he or she is a separate person.
- Arrange for another means of transportation, so the conservatee doesn't need to drive. For example, you might buy a bus pass or taxi coupons for the conservatee or arrange for community van service, if it's available.

If you don't take all reasonable steps that you can to stop the conservatee from causing harm, you may have to pay out of your own pocket for the cost of any damage to people or property.

You or the conservator of the estate may be able to obtain insurance that will reduce the risk that you or the conservatee will have to pay out money for such harm. If you are worried that there is a serious risk that the conservatee may cause harm, check with your lawyer. **L**

4.10 Conservators Who Live Out of the Area

Even though you don't live near the conservatee, you still must carry out your duties as if you lived nearby. If you can't do certain things personally, you must make other arrangements to have them done.

TIPS FOR PERSONAL CONSERVATORS WHO LIVE OUT OF THE AREA

- Have a nearby friend, neighbor, or relative visit the conservatee frequently and report back to you. You may want to offer to pay the friend or neighbor reasonable out-of-pocket expenses.
- Regularly telephone the place where the conservatee lives and speak to people in charge and to the conservatee. Try to speak to the conservatee in private, if possible.
- Send frequent cards and letters that can be read aloud to the conservatee if he or she is not able to see or read. Whenever possible, include photographs.
- Arrange for regular visits by a priest, minister, or rabbi or others from the conservatee's religion.
- Send flowers from time to time.
- Have a telephone put in the conservatee's room if he or she lives in a care facility.
- Frequently thank the care facility staff.
- Consult a private case manager, the social work department of a hospital, or the court investigator in the conservatee's community if you need information, referrals, or assistance.
- Visit the conservatee periodically.

Reimbursement for travel expenses. It's possible that your travel expenses to visit the conservatee could be paid from the conservatee's assets, depending on the distance traveled, but it is generally safer to pay travel expenses yourself if you can afford it, at least during the first year of the conservatorship, and then to seek court approval for reimbursement from the conservatee's assets at the time you ask for fees as compensation for your services as conservator.

Reimbursement for purely local travel expenses, including the cost of fuel or mileage and parking charges, is usually not approved by the court if you intend to request fees for your services because such expenses are considered paid by an award of compensation. If you are not going to ask for fees, the court will probably authorize you to reimburse yourself from the conservatee's assets for local travel expenses. However, you should not reimburse yourself until the court has authorized you to do so.

5

CONSERVATOR OF THE ESTATE

Managing the Conservatee's Finances

As **conservator of the estate**, you are responsible for managing the conservatee's finances. Your role is to protect the conservatee's **income** and **assets** by making sure the conservatee's bills are paid, investing the conservatee's money, making sure that the conservatee's property is insured, seeing that the conservatee is receiving all the income and benefits he or she is entitled to, and being sure that the conservatee's tax returns are filed on time.

Special Note for Limited Conservators

If you are a conservator of the estate in a **limited conservatorship**, the order appointing you and your **Letters of Conservatorship** will specify those areas you are allowed to manage.

Read chapter 3 on limited conservatorships and then look through this chapter to read about the particular areas you are authorized to handle.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

SUMMARY OF TIMELINE AND RESPONSIBILITIES FOR A CONSERVATOR OF THE ESTATE

- Step 1** You **qualify** and are appointed conservator of the **estate**. You may be required to obtain and file a **bond** with the court to qualify.
- Step 2** Obtain your Letters of Conservatorship, and use **certified copies** of the Letters to notify the conservatee's banks, creditors, stock-brokers, and others (such as the Social Security Administration [SSA] or Department of Veterans Affairs) that you are authorized to act on the conservatee's behalf.
- Step 3** Figure out what assets the conservatee owns and locate them. Take immediate steps to protect assets. Consult your lawyer about any urgent steps that may be necessary to prevent loss, such as freezing the assets so that no one but you has access to them. **L** Change the conservatee's mailing address so that financial correspondence and bills come to you.
- Step 4** Prepare an **Inventory and Appraisal** of the conservatee's assets, and file it with the court clerk within *90 days* after your appointment. **L**
- Step 5** Evaluate the conservatee's financial needs, and draw up a plan for meeting those needs (your conservatorship plan).
- Step 6** Set up a simple, accurate system for keeping records of conservatorship income and expenditures.
- Step 7** Protect and manage the conservatee's finances by
- controlling the conservatee's assets,
 - collecting income due the conservatee,
 - making a budget for the conservatee to live on,
 - paying the conservatee's bills with the conservatee's money,
 - investing the conservatee's money,
 - protecting the conservatee's assets, and
 - keeping good records of income and expenditures.
- Step 8** You must file an **accounting** showing how you handled the conservatee's income and property within one year after your appointment and at least every two years after that (conservators of small estates may be relieved of this task, but don't assume that you have been relieved unless the court excuses you). **L**

Step 9 You will serve as conservator until you have filed a **final accounting** and a judge **discharges** you as conservator. This will happen if you resign (and the court accepts your resignation), the conservatee dies, a judge replaces you with a new conservator, or a judge decides that the conservatee no longer needs a conservator.

5.1 Getting Started

Once you have been appointed conservator of an estate, you must take certain steps to qualify to serve. When you have qualified, you must obtain your Letters of Conservatorship (often just called Letters) from the court, which is evidence of your authority to act as conservator.

The next step is to let the people and institutions involved with the conservatee's property and finances know that you have been appointed conservator by delivering to them certified copies of your Letters. You then take control of the conservatee's assets, prepare an inventory for the court listing them, and develop a plan for how you will manage the **conservatorship estate**.

At the outset, you may need to take fast action to protect assets and prevent confusion or financial loss. If you are represented by a lawyer, you should discuss all of the tasks involved and decide who will be responsible for each. **L**

A. Qualifying to Serve as Conservator of the Estate

Once you have been appointed as either **limited** or **general conservator** of an estate, you must qualify before you start to manage the conservatee's property and finances.

To qualify, you must obtain a surety bond (unless the judge has not required a bond in your case) and file it with the court clerk; see section 5.1, part B, below. You must also do the following:

- Sign and file an acknowledgment that you received a statement of the duties and liabilities of the office of conservator, and also that you received this handbook. This acknowledgment is on Duties of Conservator and Acknowledgment of Receipt of *Handbook for Conservators* (**Judicial Council** form GC-348). A link to this form is included in Appendix F at the back of this handbook.

- Sign an oath (also called an *affirmation*) that you will perform your duties as conservator according to law. The affirmation is contained in the Letters of Conservatorship (form GC-350) that you must sign before it is filed with the court. See the link to this form in Appendix F at the back of this handbook.
- Satisfy any other requirements your local probate court may have.

See chapter 1, section 1.6, concerning the duties of a spouse or **domestic partner** of a conservatee when changes in the conservatee's marital or domestic partnership status are possible.

B. Obtaining a Conservator's Bond

A conservator's bond is like an insurance policy for the conservatee's estate. Money from the estate is used to pay the premium to a special kind of insurance company called a **surety company**, or just a *surety*, each year. The original bond issued by the surety must be filed with the court before you receive your Letters.

If the estate loses value and a judge decides that the conservator's dishonesty, misconduct, or negligence was to blame, the surety will pay the estate for the loss and the lawyers' fees and costs incurred by the person who asked the judge to make this decision (up to the total amount of the bond). The surety will then attempt to collect the amount it paid from the conservator's own money or property.

A bond is issued for a specific dollar amount. That amount is the maximum amount the surety agrees to pay if necessary. The premium payable to the surety company is based on that amount. The bond is usually set at an amount equal to the total of the estimated value of the conservatee's personal property plus the estimated annual income from the conservatee's real and personal property; plus the estimated annual amount of certain public benefits the conservatee is expected to receive; plus an additional percentage of the total of these amounts to cover the cost of collection of the bond, including attorneys' fees. The court may allow a conservator to file a smaller bond if he or she decides to put some of the conservatee's money in a **blocked account**, a special kind of bank account that does not permit withdrawals unless the court authorizes them.

The amount of the bond in your case was set by the court at the time you were appointed conservator of the estate. It was based on the estimated size and composition of your conservatee's estate and estimated income shown in the petition for your appointment as conservator.

The initial estimated value of the estate may turn out to be too low, or the kind of assets held may change, for instance, if you sell the conservatee's real property for cash. The amount of bond on file may become less than the amount required by law. If that happens you must immediately apply to the court for an order increasing the amount of the authorized bond. You then must obtain and file the increased bond with the court.

Sometimes the amount of bond on file becomes greater than the amount required by law. This can happen if the original estimate was too high or if expenditures approved by the court for the support of the conservatee reduce the estate below its estimated size. If that happens, you may apply to the court for an order reducing the amount of the required bond. If the court orders the bond reduced, the surety company will issue an amendment to the bond to match the reduction ordered by the court, and you may receive a refund of unused bond premium on the original bond in the year of the change. The bond premium will also be lower in future years.

You should consult with your lawyer on any questions about bonds, and both of you should always be aware of the required amount of bond for your conservatee's estate and the value and kind of property in the estate at any given time. **L**

C. Obtaining and Using Letters of Conservatorship

When you have qualified, you or your lawyer must prepare your Letters of Conservatorship (form GC-350) and have the court clerk sign it, add the court seal, and file it with the court. Letters are evidence of your authority to act as conservator. To show this authority, you use copies of the form certified by the clerk of the court to be true copies of the original filed with the court.

The Letters show persons and organizations that you are the duly appointed conservator with authority to act for the conservatee, and that the conservatee no longer has the legal capacity to make contracts, with certain limited exceptions. Banks, stockbrokers, insurance companies, other businesses, and many public agencies will ask for certified copies of your Letters before they will accept your instructions concerning the conservatee.

See chapter 1, section 1.3, for more information about qualifying for your Letters of Conservatorship, getting them issued, and obtaining certified copies of them.

To protect the conservatee’s home and other real estate, you or your lawyer must **record** a certified copy of your Letters with the county recorder in each county where you think the conservatee owns an interest in any real property, including a security interest, such as a mortgage or trust deed securing a promissory note on which the conservatee receives payments. Recording the Letters keeps the real property from being sold, transferred, or offered as security for a loan without your knowledge and prevents anyone from claiming that he or she did not know about the conservatorship when dealing with the conservatee or the conservatee’s real property. See the sample letter that follows, which shows how to record certified letters.

Note that the sample letter sends both a certified copy and an uncertified photocopy of the Letters—always a good idea when sending anything to be recorded. Many (but not all) recorders will conform the uncertified copy by placing the recording information on it (the date and time of recording, and the document number assigned by the recorder). The copy will then be returned in the envelope you have provided, often within a few days. Regardless of whether the conformed copy is returned, the certified copy actually recorded will eventually also be returned to the person identified at the top of the document (usually your lawyer, if you have one). However, this may take several weeks. In the meantime, the conformed copy is good proof that the document has in fact been recorded on the date shown. Some courts may require you to file a copy of your recorded Letters as proof that you have recorded them, particularly if there is real property in the estate.

Please remember that a certified copy of your Letters is evidence of your authority to act as conservator only as of the date of the clerk’s certification. This fact may result in your need to get certified copies several times from the clerk of the court during your time as conservator. Banks, securities brokers, and stock transfer officers of corporations often insist on certification dates that are less than 30, 60, or 90 days old when Letters are presented to them. Hence, you should be careful to get only as many certified copies of your letters as you need immediately; you may have to repeat this step a number of times.

SAMPLE LETTER TO COUNTY RECORDERS

2230 Montezuma
Napa, CA 94558
June 3, 2012

Napa County Recorder Office
1195 Third St., Room 110
Napa, CA 94559

↓
RE: Conservatorship of the Estate of Luigi Oreste Rossi,
also known as Lou O. Rossi

Dear County Recorder:

Please record the enclosed certified copy of the Letters of Conservatorship. I am enclosing a certified copy and a photocopy. Kindly conform the photocopy and return it in the self-addressed, stamped envelope enclosed.

I am enclosing a check in the amount of \$_____ to cover the recording fee.

Thank you for your assistance and cooperation.

Sincerely,

Angela Mello
Conservator of the Estate of
Luigi Oreste Rossi

Enclosures:

Certified copy of Letters of Conservatorship
Photocopy of Letters of Conservatorship
Check
Self-addressed, stamped envelope

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

Call the recorder's office to find out the proper amount, and fill in that figure here.

D. Working with the Conservator of the Person

If someone else is conservator of the person, you should begin working with that person as soon as possible. You will need to stay in touch with the conservator of the person to decide which arrangements for the conservatee's care are needed and are affordable.

E. Working with the Conservatee

Try to involve the conservatee in your decisions. You must treat the conservatee with respect, making choices that benefit the conservatee and encourage self-esteem. However, in the end you must make the necessary decisions. The court will hold you, not the conservatee, responsible.

F. Developing Your Plan of Conservatorship

Chapter 6, section 6.1, of this handbook explains how you can prepare a plan for the conservatorship. Whether you are conservator of the estate, conservator of the person, or both, the plan will help you keep track of all of your duties and fulfill them regularly. Although formal conservatorship plans are not required in all cases in California, some courts require conservators to prepare and file them in all cases, and all courts may require them in any given case. Speak to your lawyer about your court's specific requirements. **L**

Whether or not you are required to prepare and file a formal plan, it is recommended that you keep at least an informal one, in the manner suggested in chapter 6. It is also a very good idea to review and adjust your plan periodically. Periodic review and adjustment is essential because changing financial conditions or other unexpected events can affect the estate. For more information, read chapter 6, section 6.2.

G. Keeping the Court Informed of Address Changes

If you are also conservator of the person of the conservatee and his or her residence is changed after your appointment, you must promptly notify the court and persons close to the conservatee of the change by completing and delivering to the court, in person or by mail, a written notice of the change. See the discussion on giving post-move and pre-move notices of changes of residence and on the conservatee's **personal residence** in chapter 4, section 4.2, parts B and E.

You must also notify the court of any change in your address or telephone number if you do not have a lawyer representing you. Your court may also require that you provide this information even if you are represented by a lawyer, or it may require that you provide current statements of your address and telephone number, and those of the conservatee, with every accounting, even if the information has not changed. The court may have a local form for this purpose. If not, you may provide this information by letter. Even if not required to do so by your court, it is a good idea to give written notice to your court of any changes to your address or telephone number.

Include the conservatorship case name and the court's case number in any letter you send to the court. Address your letter to the clerk of the court, not to the judge. If you are in a large county, address it to the probate clerk or probate department. Send it to the address of the court where your appointment hearing was held. Send a copy of your correspondence to the court investigator's office. That office will usually be in the same location as the court, but you should check to make sure.

The courts are currently developing and expanding the use of e-mail communications for routine correspondence with persons outside the court system. You may expect an increase in this form of communication in the next several years. If you have an e-mail address and agree to accept e-mail communications from court staff for routine matters in your role as conservator, inform the court in the correspondence described above or in a separate letter that court staff communications to your e-mail address are acceptable to you. Be sure to advise the court promptly in writing if your e-mail address changes or if you no longer maintain such an address.

5.2 Responsibilities of a Conservator of the Estate

The conservatee's assets and most of his or her income are known as the *conservatorship estate*, or just the *estate*. As conservator of the estate, you must protect and manage the estate for the conservatee's benefit. The court also may authorize you to use estate assets to support the conservatee's spouse, domestic partner, or minor children; for the benefit of the conservatee's family; or to implement the conservatee's estate plan.

As protector and manager of the conservatee's assets, you must do the following:

- Locate and take control of the assets and make sure they are adequately protected against loss.
- Make an inventory of the assets for the court.
- Collect all of the conservatee's income and other money due and apply for government benefits to which the conservatee is entitled.
- Make a budget for the conservatee, working with the conservator of the person, or if there isn't one, working with the conservatee or his or her caregiver.
- Pay the conservatee's bills and expenses on time and in line with the budget you have made.
- Keep track of how a trustee, spouse or domestic partner, or other party is managing any of the conservatee's assets in his or her control.
- Invest the estate assets and income in safe investments that will meet the conservatee's needs and the court's requirements. You should consult with your lawyer concerning any investments of the conservatorship estate. Some investments require prior court approval or may not be authorized under any circumstances. **L**
- Periodically account to the court and to other interested persons about income coming into the estate, expenditures, and the remaining conservatorship property.
- Prepare a final report and accounting of the estate when the conservatorship ends.
- Distribute the conservatee's property remaining in your hands to the conservatee, if he or she has been restored to capacity; to a successor conservator appointed by the court if you resign or are removed as conservator; or to the personal representative of the conservatee's decedent estate or other successor in interest, if he or she has died.

5.3 Giving Notice of Your Appointment

As you locate the conservatee's assets (see section 5.5) and acquire knowledge of the people and institutions that have a financial relationship with the conservatee, notify them promptly about your appointment as conservator.

People and institutions that need to be notified may include the following:

- The conservatee's employer, if the conservatee is working
- Banks, savings and loans, credit unions, and other financial institutions
- Stockbrokers
- Companies in which the conservatee owns stock
- Insurance companies and agents
- All companies and banks where the conservatee has charge accounts, credit cards, or debit cards
- Government agencies, such as the Social Security Administration or the Department of Veterans Affairs, from which the conservatee receives payments
- Retirement or pension plans
- The conservatee's accountant or tax return preparer
- Trustees, if the conservatee has trusts or is a beneficiary of someone else's trust; see section 5.8, part M
- Creditors, or people to whom the conservatee owes money
- Debtors, or people who owe the conservatee money
- Anyone else who sends the conservatee money: for example, the tenants of any rental property owned by the conservatee
- Anyone involved in a lawsuit by or against the conservatee, especially any lawyer who is representing the conservatee in a lawsuit
- The post office, if you want the conservatee's mail to be forwarded to your address

Be sure to include the new address to which such people and institutions should send any future correspondence, bills, or payments. See the sample notice letter that follows. The sample letter is to the Social Security Administration,

so it contains the conservatee's social security number. **You should be particularly careful not to disclose that number in most correspondence these days, whether print or electronic, because of the greatly increased threat of identity theft in recent years.**

You may also find that you may be able to communicate electronically with the Social Security Administration much more now than even in the recent past. Unfortunately, you may also find that many SSA offices do not respond to correspondence, or do not do so in a timely manner. You must be prepared to follow up with further contact with SSA representatives, most commonly by visiting a SSA office. If possible, that office should be the one serving the area where the conservatee lived at the time of your appointment. Be sure to bring certified copies of your Letters with you to enable you to discuss the conservatee's social security situation with SSA representatives.

SAMPLE LETTER OF NOTICE OF APPOINTMENT

53980 W. Petaluma Ave.
Fresno, CA 93711
March 9, 2015

↓
Social Security Administration
5090 N. West Avenue
Fresno, CA 93711

↓
RE: Conservatorship of the Estate of Barton George
Krikorian, also known as Bart Krikorian

Conservatee's birth date: August 12, 1930

Conservatee's social security number: 333-22-1111

Dear Administrator:

Please be advised that I have been appointed conservator of the estate of Barton George Krikorian. Please have all future checks made out to me, Harold Krikorian, Conservator of the Estate of Barton G. Krikorian, and sent to me at the above address.

I have enclosed a certified copy of my Letters of Conservatorship for your records.

Sincerely yours,

Harold Krikorian
Conservator of the Estate of
Barton George Krikorian

Enclosure: Certified copy of Letters of Conservatorship

Use the address of your local Social Security office.

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

You've just seen the second of several sample letters disclosing to others a person's position as the conservator of an estate. Please note in this sample how the conservator's signature block is set up, just below the space for the conservator's actual signature:

Harold Krikorian
Conservator of the Estate of Barton George Krikorian

5.4 Contracting on Behalf of the Conservatee

When you sign a contract as the conservator of an estate, you bind, or obligate, the conservatee's estate, not your own property. The other party to the contract must look to the conservatee's estate, not to your property, for payment.

If the other party to a contract didn't know that you were acting as a conservator when the contract was signed, he or she would assume that you signed the contract as an individual, with the intent to obligate your own property or credit. If that assumption is reasonable under the circumstances, you might be held personally responsible.

It is important to make sure that the people or organizations you deal with when you act as conservator know that you are acting in that capacity. One way to do so is to deliver copies of your Letters. Another way is to identify yourself as the conservator of the estate in all letters that you send to anyone concerning your conservatee's financial affairs, in the way noted here. You can, of course, simply tell anyone you deal with that you are acting as a conservator. However, to protect yourself in case of a dispute later, you should make sure there is some written record that shows that you clearly advised the other person that you were acting as a conservator at the time of the transaction between you and the other person.

In particular, make sure any written lease, contract, or agreement you sign for the benefit of your conservatee identifies you throughout the document as the conservator of his or her estate. At the very least, add the line "Conservator of the Estate of [conservatee's name]" just below the place where you sign the document, even if you have to fill this in by hand at the time you sign.

You should also be careful not to agree to be personally responsible for, or guarantee, any payments due under any contract you sign as conservator. Language imposing this obligation may be buried in the fine print. If you have any questions about a contract you are thinking of signing or are unsure of any of its terms, you should have your lawyer review it *before* you sign. **L**

Finally, all checks you write for the benefit of the conservatee, including all payments under any contract, should identify you as conservator of his or her estate. You should make no payments from your own checking account or charged to your own credit card.

5.5 Locating the Conservatee's Assets

Find and take control of the conservatee's income and assets. This means identifying the assets the conservatee owns and the income he or she receives and is entitled to receive; finding the assets and the sources of income; taking all necessary immediate steps to protect them from loss or damage; and marshaling, or collecting, them, usually by transferring them into your name as conservator. **L**

The information you gain from taking control of the conservatee's assets will help you prepare an Inventory and Appraisal. You should begin the inventory as you go through the process of identifying and locating assets. It must be submitted to the court within 90 days of your appointment (see section 5.7 and Appendix C).

INCOME TO LOOK FOR

- Government benefits such as social security, **SSI**, veterans' benefits, disability, or welfare
- Insurance benefits
- Wages; severance pay; or disability, vacation, or sick leave owed to the conservatee
- Pensions
- Retirement plan payments or withdrawals
- Settlements from divorce, injury, or other lawsuits
- Payment of debts owed to the conservatee
- Money from trusts
- Rental income
- Annuities
- Reparations from foreign countries

ASSETS TO LOOK FOR

- Cash
 - Uncashed checks and refunds
 - Bank accounts (checking, savings, certificates of deposit)
 - Stocks (shares of individual companies and mutual funds, and stocks held in stockbrokerage accounts)
 - Bonds
 - Promissory notes and other legal claims on others, whether or not reduced to court judgments **L**
 - Partnerships
 - Other business interests
 - Pensions, **Keogh plans, 401(k) plans, individual retirement accounts (IRAs)**, and other retirement plans
 - Life insurance policies
 - Real estate
 - Furniture
 - Antiques
 - Artwork
 - Jewelry
 - Valuable dogs or other pets
 - Valuable collections
 - Vehicles
-

A. Assets That Aren't Part of the Conservatorship Estate

Certain assets or income of the conservatee are not part of the conservatorship estate. You can't take control of them. You are also not responsible for them and do not have to account to the court for them.

Current salary or wages. If the conservatee is working, the salary or pay from that work is the conservatee's to use as if the conservatorship did not exist. The conservator neither collects nor accounts to the court for the conservatee's current wages.

Assets in a living trust. If the conservatee has created a **revocable living trust**, the assets held by the trustee of that trust will be handled by the trustee as provided in the trust documents and not as part of the conservatorship. If the conservatee is the trustee, you may have to help arrange for a successor trustee named in the trust documents to take over the duties of trustee.

Community property of a married conservatee or a conservatee who is in a domestic partnership. If the conservatee is married or has a domestic partner, and his or her wife, husband, or partner has legal capacity, the capable spouse or partner has the exclusive right to manage and control the couple's **community property**. That property is not part of the conservatorship estate unless the capable spouse or partner consents in a writing filed with the court in the conservatorship that some or all of it is to be included in the conservatorship estate.

However, the capable spouse or partner has a legal duty to support the conservatee spouse or partner. If the capable spouse or partner is managing some or all of the couple's community property outside the conservatorship, this duty may be enforced against that property in the conservatorship proceeding rather than in a marital or partnership support proceeding under family law. In addition, the court in the conservatorship may order the capable spouse or partner to apply community property that he or she is managing to the support of the conservatee, at the request of the conservator, the conservatee, a relative or friend of the conservatee, or any other interested person. **L**

If the capable spouse or partner has **separate property**, he or she may still have a duty to support the conservatee spouse or partner from that property. However, that obligation must be enforced by a family law department of the superior court, not the probate court. If you have any questions concerning a capable spouse's or partner's separate property, you (and possibly your lawyer in the conservatorship proceeding) should talk to a lawyer experienced in family law. **L**

Although most domestic partnerships are between two persons of the same sex, some of them involve opposite-sex couples. Two persons of the opposite sex may become domestic partners only if at least one of them is over the age of 62 and qualifies for certain federal social security benefits commonly received by persons of that age and older. If your conservatee lives with someone of the opposite sex to whom he or she is not married and both are over the age of 62, you should learn whether they are domestic partners.

If you are married to or in a domestic partnership with your conservatee, you should consult closely with your lawyer about the character (community or separate) of your property, about which portions of your community property you should manage inside or outside the conservatorship, and about the support you provide the conservatee from that property or from your separate property. **L**

Even if you are not the spouse or domestic partner of your conservatee, you should consult frequently with your lawyer about the questions mentioned here, particularly questions about the character of the property held by the conservatee or his or her spouse or partner and questions concerning support from the conservatee's community property or from the spouse's or partner's separate property. **L**

If both spouses or domestic partners have conservators of their estates, one-half of the community property of the couple is included in each conservatorship estate and is managed by the conservator of that estate, unless the two conservators agree otherwise and the court in either conservatorship proceeding has approved the agreement. If your conservatee's spouse or partner also has a conservator, you should cooperate and work as closely with that conservator as you can.

B. How to Find the Conservatee's Assets

Look through the conservatee's accumulated mail. Make sure to contact all senders of mail to ensure that new mail is sent directly to you, and check all mail that is forwarded or sent directly to you.

Carefully look through the conservatee's home for cash, ownership papers, financial records, recent mail, income tax returns, deeds, insurance policies, and other valuables. Look in the conservatee's safe deposit box; see section 5.6, part B.

The best sources of information are the conservatee and his or her close friends, relatives, business associates, and accountant or lawyer. If the conservatee is confused or forgetful, double-check everything he or she tells you.

If you believe someone else has some of the conservatee's assets or records that you should have, but that person won't cooperate with you, consult your lawyer to find out about court procedures that can help you. **L**

C. Assets Owned by the Conservatee and Others

Real estate, bank accounts, and other property owned with others create special problems. Co-owners should be contacted immediately to figure out how much of the property belongs to the conservatee and how much belongs to the co-owners.

Co-ownership is a complicated legal area. Whenever you change the owner of an asset from the conservatee to the conservatorship estate, the rights of co-owners are affected. The consequences may happen after the conservatee's death or while the conservatee is alive. Consult your lawyer about property owned with others. **L**

5.6 Taking Control of the Conservatee's Assets

You must take control of the conservatee's assets and transfer them into the conservatorship estate.

A. Bank Accounts

Open a checking account right away in this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

It is important to use this name. Use the conservatee's social security number, not your own, to open this account. Instruct the bank to send all statements and canceled checks directly to you.

Consider also opening a savings or money market account in the same way. Money not needed for current ongoing expenses should be deposited in an interest-bearing savings or money market account.

Asking financial institutions for information. Take a certified copy of your Letters to all banks and other financial institutions where you think the conservatee had accounts on the date you were appointed. Ask what accounts, if any, the conservatee has there and how the conservatee's name appears on them. Also ask the bank to give you the current balance of each account and the balance on the date you were appointed. If you don't have the conservatee's original statement for each account for the period that includes the date of your appointment, ask for a copy of that statement.

Revocation of powers of attorney concerning bank accounts. Some bank or savings and loan accounts give rights to a person other than the owner of the account to withdraw from the account, by language on the signature card for the account that creates a **power of attorney**. Depending on the language used on the card, the power of attorney is either durable or nondurable.

A **nondurable power of attorney** is not effective once the **principal** (the person who created the power and for whom the **attorney in fact** acts under the power) loses legal capacity. The appointment of a conservator of the estate for a principal establishes the principal's incapacity. But a nondurable power of attorney over a bank account remains effective if the bank relies on the power before it has been given written notice of the principal's incapacity.

Letters of Conservatorship delivered to the bank would, with nothing more, give enough written notice to the bank of the principal's incapacity. But you may also want to deliver, with the Letters, a short letter to the bank, from you, as conservator of the estate of the [named] conservatee, containing the following statement:

I revoke any signature authorization and any power of attorney applicable to any account held by [Name of Conservatee], the conservatee named in the Letters of Conservatorship delivered with this letter, to the fullest extent allowed by law.

Please advise me immediately if a durable power of attorney applies to any account held by the conservatee.

This language is intended to emphasize to the bank that it should act correctly by preventing any attorney in fact appointed under a non-durable power from continuing to act on the conservatee's accounts at that bank.

A **durable power of attorney** remains effective upon the principal's incapacity. A conservator of the estate can revoke a durable power of attorney created by the conservatee only with prior authority of the court.

The language suggested above would revoke only nondurable powers because the court has not given authority to revoke durable powers. If the court had granted this authority, your letter to the bank delivered with the Letters of Conservatorship would mention that fact and would include a certified copy of the court's order. The bank will have the signature cards for its accounts and should be willing to inform the conservator as to whether any durable powers of attorney have been created affecting accounts at that bank.

Changing the name of the owner of existing bank accounts and time deposits. You should change the ownership of bank accounts and time deposits that you discover in the conservatee's name to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

It is important to use this name. Make this change as soon as possible.

Some banks will waive penalties for early withdrawal of time deposits to establish conservatorship accounts. If the institution won't waive the penalty, do not wait until the deposit matures to withdraw funds or

close the account. Change the name of the account's owner to the conservatorship immediately, even if doing so would cause the account to lose some interest. In any event, notify the bank of your appointment.

Each financial institution must advise the court that ownership of an existing account has been changed to show a conservatorship, or that a new account has been opened showing a conservatorship, and must provide other required information. This communication is done on a required form called Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box (form GC-051). A link to this form is included in Appendix F. The bank should have its own supply of these forms and is responsible for preparing and filing them directly with the court. It is a good idea to ask the bank to send you a copy of the completed form when it sends the original to the court, although the law does not require the bank to do so. Providing the bank with a self-addressed, stamped envelope for this purpose may persuade the bank to voluntarily comply with the request. You can also obtain a copy of this form from the court's file after the bank files it.

Conservatee's personal checking account. Some conservatees are capable of paying for everyday expenses such as utilities, food, rent, clothing, or other incidental expenses. If so, the judge may have approved an allowance for the conservatee. If the conservatee can manage a small checking account, you may want to keep one account open in the conservatee's name, into which you deposit the allowance payments. Have the bank send you all the statements and canceled checks on this account, so that you can see how the conservatee is spending the money and so that you can control the amount in the account. You must show approved allowance payments to the conservatee in your accounting, but you do not have to show the court what the conservatee did with the allowance payments.

Accounts the conservatee owns with someone else. If you discover that any of the conservatee's accounts are owned with someone else—for example, as a **joint tenant**—do not remove funds from the account or remove the other person's name without checking with your lawyer. **L** In the meantime, let the bank know you have been appointed conservator and ask that no withdrawals be permitted from the account without your consent.

If the bank won't cooperate, contact your lawyer immediately. **L** You may need a court order to freeze the account while a judge decides the rights of the other person whose name is on the account.

If you withdraw funds, or if you remove the other person's name, you may be affecting the conservatee's intended estate plan. Some or all of the money remaining in such accounts is supposed to go to the other person named on the account if the conservatee dies first. You may also be affecting the other person's rights during the conservatee's lifetime, which will be especially important if some of the money in the joint account originally belonged to the other person named on the account. **L**

Accounts the conservatee owns with a designated beneficiary. If you discover that any of the conservatee's accounts have a **beneficiary**, or *payee*, named on the account—for example, a **Totten trust account** or a **pay-on-death account**—be sure to keep the beneficiary or payee designation when you change the account name to the conservatorship and to you as conservator. Otherwise, you may be seriously affecting the conservatee's estate plan. The money remaining in such accounts is supposed to go to the named beneficiary or payee when the conservatee dies. You should also be reluctant to withdraw money from these accounts without first talking to your lawyer, because if you withdraw money from one account and not from another, and each account has a different named beneficiary or payee, you will be affecting the conservatee's estate plan. You may need a court order to solve this problem. **L**

Where to deposit money. You may deposit conservatorship funds in any California bank or any insured savings and loan or credit union. Don't put more money in any one institution than its Federal Deposit Insurance Corporation (FDIC) insurance limit (currently \$250,000), unless the deposit is made to a special account that some institutions maintain, called a Certificate of Deposit Account Registry Service®, or CDARS®, account

Checkbook records. Put all income in the conservatorship checking account and use it to pay expenses. Avoid making out checks to "Cash," except for petty cash or for a court-authorized allowance paid directly to the conservatee. Section 5.8, part C, later in this chapter explains how to use checkbook records to prepare your reports to the court.

Keeping the conservatee's money separate. Mixing the conservatee's money with your own can get you into serious trouble. For example, never deposit into your own bank account a check that is made out to the conservatee, even though it may seem convenient at the time. A judge may remove you as conservator and make you pay for any losses out of your own pocket if you can't account for all of the conservatee's money. It's even a good idea to set up the conservatorship bank accounts at a different bank than your own so even an unintended or accidental deposit into the wrong account is unlikely.

CAUTION: None of the conservatee’s money should ever go into your personal accounts, and none of your own money should ever go into any of the conservatee’s accounts or into any account in your name as conservator.

B. Safe Deposit Boxes

Banks will make you show a certified copy of your Letters before you may open the conservatee’s safe deposit box to review the contents. When you open the box, be sure to ask a bank employee to watch you remove the contents and make a list of them, and then ask the employee to sign and date the list.

If you close the box or change title to it to show the name of the conservatorship, the bank must complete and file with the court the same form required for changes in bank accounts. This form requires the bank to describe the contents of the box. Ask for a copy of the completed form that the bank sends to the court.

If you can’t find a safe deposit box key, the bank may have to arrange for a locksmith to come to the bank to drill the lock on the box so that it may be opened to allow the bank to identify its contents for the court form or to inventory and deliver those contents to you. You should be present when that is done.

The bank will hire a locksmith to come to the bank to perform that service and will bill you for its cost. The bill may be paid from the conservatee’s assets. However, you should write a check for this cost rather than permit the bank to withdraw the money from a conservatorship account opened at the bank. Doing so will ensure that your record of expenditures is accurate and complete.

If the conservatee rented the box with someone else. If the conservatee’s safe deposit box is rented with someone else, ask that person to come with you when the box is opened. Separate the items in the box so that it contains only the conservatee’s belongings. If there is a question or disagreement about who owns a particular item, leave it in the box and check with your lawyer. **L**

If you are going to keep the box for storing conservatorship property, you should change the title on the box to this name:

Conservatorship of [conservatee's name], [your name],
Conservator of the Estate

You should be the only one to have a key to the box. Even the conservatee should not have a key.

If the conservatee doesn't have a box. If the conservatee doesn't already have a safe deposit box, think about renting one. If you rent a box in the name of the conservatorship, the bank must notify the court that you have done so and must tell the court what went into the box on the day it was rented.

Never store the conservatee's assets in your own safe deposit box.

What to keep in the box. A safe deposit box is useful for keeping small but valuable objects, such as precious jewelry, stamp collections, and coin collections. If you are unsure about whether it is more important for the conservatee to have personal possession of such an item rather than to have it stored in a safe deposit box, consult your lawyer. Remember that you may have to pay for any loss of valuables out of your own pocket. **L**

Important papers should also be kept in the box.

PAPERS TO KEEP IN A SAFE DEPOSIT BOX

- The conservatee's will or other estate planning documents
- Stock certificates
- Bonds
- Real estate deeds
- Vehicle or vessel registration documents
- Promissory notes
- Insurance policies
- Birth, marriage, and death certificates
- The conservatee's passport

- Photographs of the conservatee’s valuable personal belongings
 - Any other papers that would be hard or impossible to replace
-

C. Stocks and Bonds

Although the conservatee’s stocks and bonds usually will be in a safe deposit box or held in a brokerage account with a broker, certificates may sometimes be found in the conservatee’s home, so you should carefully look for them. You may also learn of stocks and bonds from brokers’ statements, income tax returns, Internal Revenue Service (IRS) 1099 forms, and dividend checks.

Lost certificates. If you find dividends reported on an income tax return, but you can’t find a stock or bond certificate or a record of ownership of the stock in a brokerage account, write to the company and ask for a replacement certificate. Be sure to tell the company to send future dividends to you.

Dividend reinvestments. If the conservatee owns the stock of a company that has a dividend reinvestment program, a plan under which cash dividends are not distributed but are instead used to buy more shares of the company’s stock, immediately ask the company to give you a statement of the current number of shares owned by the conservatee. It is often very difficult to keep track of reinvested dividends for your account to the court. You may want to consider discontinuing the reinvestment program in favor of receiving the dividends in cash, if that is an option. Check with your lawyer if you’re not sure what to do. **L**

Changing ownership. Have the stocks or bonds reissued to this name:

Conservatorship of [conservatee’s name], [your name],
Conservator of the Estate

Use the conservatee’s social security number on IRS Form W-9. See the sample letter that follows.

If any of the conservatee's stocks or bonds are held in a brokerage account by a stockbroker, you can change the record ownership of the brokerage account in the same way that you change ownership of bank accounts. The broker must complete and file a Notice of Taking Possession or Control of an Asset of Minor or Conservatee (form GC-050) when you have changed the title to any brokerage account to show the conservatorship, or when you open a new account showing the conservatorship. A link to this form is included in Appendix F. As with the similar form used by banks, it is a good idea to ask the broker to provide you with a copy of the completed form when the original is sent to the court.

If the conservatee owns a number of stocks or bonds that are publicly traded, you will find them easier to deal with by opening a brokerage account in your name as conservator and placing the conservatee's shares into the account. The broker will handle all aspects of the transfer procedure, the share certificates will be safe, the broker will receive cash dividends or bond interest and will either send them to you or place them into a money market account attached to the brokerage account, and you will receive periodic statements showing the current value of the shares and all dividend activity. If you later sell any of the shares, the broker will handle all aspects of the transfer procedure.

If, however, you discover that any of the conservatee's stocks, bonds, or mutual funds are owned with someone else or have another person named as beneficiary, be careful when changing ownership. Do not remove the co-owner or beneficiary without first checking with your lawyer. You should also check with your lawyer before selling these stocks or bonds or withdrawing from these mutual funds. You could be affecting the conservatee's estate plan or affecting the rights of the co-owner or beneficiary. For more information, see the discussion in section 5.6, part A, earlier in this chapter, about bank accounts owned with someone else or having a designated beneficiary. **L**

SAMPLE LETTER FOR STOCKS AND BONDS

P. O. Box 4392
Yreka, CA 96067
November 18, 2015

Retrodate Technology
44 Sea Lake Way
Mountain View, CA 94040

Attn: Stock Transfer Department

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

→ RE: Conservatorship of the Estate of Mary Jane Orr,
also known as M. J. Orr

Shares of Stock in Retrodate Technology,
Certificate Number 210008070940

Dear Transfer Agent:

Enclosed please find a certified copy of Letters of Conservatorship that verifies that I have been appointed conservator of the estate of Mary Jane Orr.

Ms. Orr apparently owned the stock certificate identified above. Please advise me of the number of shares she now owns and your requirements for transferring this stock to the conservatorship estate. Please forward all forms that must be completed. Thank you for your assistance.

Sincerely,

Elaine MacArthur
Conservator of the Estate of
Mary Jane Orr

Enclosure: Certified copy of Letters of Conservatorship

D. Real Estate

Title to real estate—including the conservatee’s home, vacation homes, rental property, undeveloped land, and deeds of trust—should be left in the conservatee’s name. Record a certified copy of your Letters with the county recorder in each California county where you think the conservatee owns real estate. See the sample letter to county recorders in section 5.1, part C, earlier in this chapter. Recording the Letters should prevent the conservatee from selling the real estate or giving it away to someone who doesn’t know about the conservatorship. It also should stop any loans the conservatee, or anyone else improperly influencing or controlling the conservatee, tries to get using the property as collateral.

If the conservatee’s property has a building on it, make sure the insurance is current. You should consider removing unsafe structures that may be a source of legal liability. **L**

E. Cars and Other Vehicles

Get the ownership certificates (“pink slips”) of all the conservatee’s cars and other vehicles, such as boats, motorcycles, campers, and planes.

Transfer ownership to this name:

Conservatorship of [conservatee’s name], [your name],
Conservator of the Estate

Keep vehicles safely stored and control their use. No one should use the conservatee’s car or other vehicle unless for the conservatee’s benefit, and only if it is adequately insured and the insurance covers all drivers. Even if vehicles are stored and not used, remember to keep them insured. Renew the registration for any vehicle that is driven. Some insurance companies may require that the ownership of the vehicle stay in the conservatee’s name. If the conservatee’s insurance company so requires, you can put your name on the title as a lienholder.

Vehicles, especially cars, lose value over time, so consider selling any vehicle that will not be used in the foreseeable future.

F. Debts Owed to the Conservatee and Missing Assets

Try to collect debts owed to the conservatee and try to get back any assets that were wrongfully taken from the conservatee. If you are faced with either of these situations, speak with your lawyer to find out what can be done. **L**

G. Charge Accounts

Try to eliminate ways the conservatee could get into debt. For this reason, it is generally not advisable for any conservatee to have a credit or debit card.

In rare situations, you may want to leave a charge account open for the conservatee's use. If so, put dollar limits on the use of the account and exercise careful control over it.

Cancel credit cards and debit cards that are open in the conservatee's name. Collect and destroy all cards except those that you decide the conservatee can keep and use, if any. See the sample letter that follows.

SAMPLE LETTER FOR CREDIT CARDS

599 Tyler Avenue
Los Angeles, CA 90004
October 1, 2015

National Express Card Company
P. O. Box 8823
Wilmington, DE 19805

↓
RE: Conservatorship of the Estate of Kazuo Carl Nishikawa,
also known as Kaz Nishikawa

Account No. 98-505-70-113

Dear National Express Card:

Please be advised that a conservatorship has been granted for the estate of Kazuo Carl Nishikawa. Enclosed please find a certified copy of Letters appointing me conservator of the estate. Please immediately cancel this account and do not allow further charges to be made to it.

I have located and cut in half the credit cards for this account. The pieces are enclosed.

Please contact me if you have any questions.

Sincerely yours,

Suzanne Nishikawa
Conservator of the Estate of
Kazuo Carl Nishikawa

Enclosures:
Certified copy of Letters of Conservatorship
Credit cards

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

5.7 Inventorying and Appraising the Estate

As you locate the conservatee's property, make a list describing each item in detail. Use this list to help you prepare your Inventory and Appraisal.

See Appendix C for a sample Inventory and Appraisal. It is prepared on two Judicial Council forms, a cover sheet and attachment pages for listing cash and noncash assets. Links to these forms are also included in Appendix F.

The Inventory and Appraisal lists all of the items of property owned by the conservatee on the date you were appointed—not the date your Letters were issued—and states their value on that date. The conservator states the value of cash items such as currency and bank accounts. The **probate referee** appraises all other items according to their fair market value. See chapter 7, section 7.1, part D, for more information about the probate referee.

A. When to File

The Inventory and Appraisal must be filed with the court within 90 days after your appointment. To avoid being late, start the inventory well before the filing date so that the probate referee will have enough time to appraise the noncash assets, complete the Inventory and Appraisal, and return it to you or to your lawyer for filing with the court.

Preparing an Inventory and Appraisal may not be a one-time obligation. Any time you discover assets owned by the conservatee at the time you were appointed but that you didn't know about until later, or you receive assets belonging to the conservatee after your appointment (other than assets you obtain as a result of your own actions to invest and manage the estate, such as when you buy stocks or mutual funds with conservatorship funds), you must prepare and file a supplemental Inventory and Appraisal describing these assets, in the same way you did the original Inventory and Appraisal, including appraisal by a probate referee if required. Property shown in a supplemental Inventory and Appraisal is valued as of the date you discovered or received it, not the date of your appointment as conservator.

If you have collected items of property and have prepared an Inventory and Appraisal, but you are close to the 90-day deadline because the referee is having difficulty completing the appraisal of some of the items, you could prepare one or more partial Inventory and Appraisal forms listing all of the cash items and any other property the

referee can appraise in time to meet the deadline, to be followed later by a final Inventory and Appraisal that includes the remaining items of property. All of the partial inventories and the final inventory together must contain all of the property of the conservatorship estate valued as of the date of your appointment.

If you sell estate real property more than one year after the date you were appointed conservator, you must obtain a probate referee's current appraisal of its value. This is called a Reappraisal for Sale and is prepared on the same form and in the same manner as the initial inventory, except that the valuation is as of the actual date of the reappraisal, not the date of your appointment as conservator.

A special rule on Reappraisals for Sale applies to sales of the conservatee's *personal residence* (see chapter 4, section 4.2). Such sales require a reappraisal for sale if the property was appraised more than six months before the court hearing to approve the sale.

B. Why the Inventory and Appraisal Is Required

Preparing the Inventory and Appraisal is an important task. It has several purposes:

- To help estimate how much income may be available over the course of the conservatorship to cover the expenses to meet the conservatee's needs
- To let the judge and other interested people know how much the conservatorship estate is worth
- To provide a list and value of property for which you are responsible
- To help the judge determine the amount of your bond

C. Establishing the Value of Personal Belongings

It may be hard to determine the value of some personal belongings. With your inventory, give the probate referee your own informal opinion of how much items such as jewelry, coins, antiques, and artwork are worth. If you believe that these items have unusual value that isn't obvious—as with paintings or sculptures, for example—consider hiring a professional appraiser to value them. Send a copy of the appraiser's opinion to the probate referee with your inventory.

D. Challenging the Probate Referee's Appraisal

The more detail you give the probate referee, the more likely that the appraisal will be correct. In your inventory, or in correspondence to the probate referee accompanying it when it is delivered to the referee, alert him or her to any facts about the conservatee's assets that may reduce their value. For example, let the referee know if the roof on the conservatee's home needs repair.

No matter how much information you provide, the referee's appraisal may not meet your expectations. You have the right to question the appraisal, and if your concerns aren't resolved, you may file objections to the appraisal in the conservatorship proceeding. There is a form for this purpose, *Objections to Inventory and Appraisal of Conservator or Guardian* (form GC-045). A link to this form is provided in Appendix F. **L**

This form shows two kinds of objections to an Inventory and Appraisal. The first is an objection based on a claim that the Inventory and Appraisal is incomplete because it does not include all property that the objector believes should be part of the conservatorship estate. This kind of objection is really against the conservator for failing to list the property, not the probate referee for his or her appraisal. It can be made only by a person other than the conservator. The second type of objection is to the appraised value of one or more listed assets or properties. This kind of objection may be made either by the conservator or by another interested person.

This form shows that you, as conservator of the estate, are not the only person who can object to an Inventory and Appraisal or to the appraisal of one or more properties listed in it. Others—including the conservatee, his or her spouse or domestic partner, and the conservatee's closest relatives—may also file objections. You or your lawyer must mail written notice to these persons that you have filed your Inventory and Appraisal and that they have a right to object to it. The notice includes advice on how to file their objections. You do this by mailing to each of them a copy of the completed and filed Inventory and Appraisal together with another form, *Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042). A link to this form is provided in Appendix F. **L**

5.8 Managing and Protecting the Estate

You will need a judge's approval before you do certain things. If you are not sure whether you need court approval, check with your lawyer. **L** If you act without a judge's permission and a loss results, you may have to pay for the loss out of your own pocket.

A. Storing and Protecting Assets

If the conservatee has no immediate need for them, store valuable furs, antiques, artwork, and excess furniture in an insured warehouse. For insurance purposes, take photographs of the conservatee's valuable personal belongings and household items and keep the photographs in the conservatorship safe deposit box. The conservatorship estate may pay the costs of storage and insurance.

B. Preparing a Budget

In preparing the budget, your primary concern is to arrange for care and comfort that the conservatee can afford. Plan the budget with the conservator of the person and, if possible, with the conservatee. The budget should include estimates of expenses and income from all sources and take into consideration free or low-cost services available from community agencies.

The budget will be an important part of your overall plan for the conservatorship. See chapter 6 for information about your plan.

WAYS TO PROTECT THE CONSERVATEE'S VALUABLE POSSESSIONS

- Remove valuables such as silver, art, jewelry, and furs from the house unless the conservatee wants to keep them at home.
 - If the conservatee wants to wear jewelry, try to substitute less expensive jewelry. For example, if the conservatee wants to wear expensive pearls on a regular basis, substitute costume jewelry.
 - If the conservatee insists on wearing valuable jewelry, alert the conservatee's relatives, friends, and lawyer, as well as your lawyer, that you are allowing the conservatee to wear his or her jewelry.
 - Take an inventory of all valuables that remain in the home and photograph them. Keep this information in the conservatorship safe deposit box. Let everyone who comes into the house know that a detailed inventory has been taken.
 - Go through the house annually to check the inventory.
 - Put locks on valuables when you can—for example, on china closets or closets in which valuables such as silver or jewelry are stored.
 - Insure valuables; this coverage can be added to homeowners' or tenants' policies. List and describe these items individually. Consider taking this step no matter who is in possession of these items.
 - Engrave identification numbers on the television and on stereo equipment. You might use the last four digits of the conservatee's social security number. Be sure to let everyone know that these items are marked.
 - If you hire an **aide** directly or through an agency, be sure to check references.
 - If you hire an aide through an agency, make sure the agency screens, bonds, and insures its employees.
-

C. Setting Up and Keeping Good Records

If you have access to a computer, the best way to keep records of the conservatorship checking account and other estate investments is with personal finance software such as Quicken. The program will help you track all of the information you need about income and disbursements. It can be tailored to fit your exact requirements. For example, if you want to keep track of expenditures by category, you can easily set up the program to do that. You can keep track of income receipts associated with the properties that generated them, such as stock dividends from each company and rental income from each parcel of real property or from each rental unit of a single property. You can also buy checks that the program will print as needed. This feature is particularly helpful because the program requires you to enter information about each expenditure into your records when you write each check. You should also be able to use the program to prepare at least some of the schedules to be attached to your accounting documents. See section 5.9, later in this chapter, and Appendix D, Sample Account and Report. Be sure to save copies of your estate records on removable drives, not just on the computer's hard drive.

If you don't have a computer, the check register for the conservatorship checking account is your indispensable tool for keeping track of income and expenditures. The larger-format register, called an *executive* or *desk register*, is the best. It allows plenty of room for complete and detailed entries, particularly of deposits. The check register sample that follows was taken from a desk register.

This type of register is offered with the desktop type of checkbook, which has three or more checks on each page. It's less convenient to carry around than a pocket or purse checkbook, but you will be glad you chose the desk register when you or your lawyer prepare your accounting documents for the court.

For the check register to give you the most help when your accounting is prepared, it must be a complete record of all estate cash receipts and disbursements. *You should deposit all income into the conservatorship checking account first*, even if you immediately write a check for the entire deposit to one of the other accounts, such as a savings or money market account. Clearly identify the source of each deposit in the check register. *You should also make all expenditures by check from the checking account*, for the same reason. The important thing is to try to keep a complete record in one place of all receipts and expenditures of the conservatee's money.

Try to arrange with the bank where the conservatorship checking and savings accounts are held to pay savings account interest into the checking account. Check the account statements frequently and add the amount of interest paid in from the savings account as deposits in the checkbook register.

Cash. Courts do not approve conservators' cash expenditures that do not show how the money was spent. For generic items such as groceries, write a check rather than spending cash. When you must use cash, keep a detailed receipt of each expenditure in case a judge or someone interested in the estate questions you about it later.

You can buy petty cash receipts in tear-off pads in any office supply store. Keep a pad of these with you at all times, fill one out for each cash payment, and attach the store's invoice or cash register receipt to it. Fully describe what was bought on each receipt if the store's invoice or cash register receipt doesn't say. In fact, writing the description and amount of an expenditure on each petty cash receipt is a good idea even if you also attach the store's invoice or receipt. Sometimes information printed on machine-printed receipts fades and becomes illegible over time.

Keep only small amounts of cash on hand as needed for small day-to-day expenses, and keep that money separate from your own cash. You may set up a petty cash system with a fairly low ceiling, say \$50. Save the receipts for cash expenditures for a month, for a shorter period, or until the total of the receipts approaches the ceiling. Replenish the petty cash fund by a check payable to "Cash" for the total amount of your receipts, so the total fund is restored to the ceiling amount. You should make a notation on the check and in the check register that the check is for replenishment of petty cash. Your accounting should show the actual expenditures of cash shown on the receipts, not the replenishment checks.

If you can afford it, it's better to pay all cash sums from your own pocket and then to reimburse yourself by check from the estate. You must still keep the detailed records described above. When you list the check in the schedule of **disbursements**, or payments, in your accounting, you should show yourself as the payee, describe the check as a reimbursement, and list the expenditures for which the check is reimbursement. See examples of reimbursement checks to the conservator and to the lawyer for the conservator in Schedule C of the sample account and report in Appendix D.

If you believe that your conservatee can handle small amounts of cash for personal expenses, you can ask the court for permission to pay a monthly allowance directly to him or her. You may then write a check for cash in the allowance amount each month, give the cash to the conservatee, and enter the check in your records as an allowance payment. You will then be excused from accounting further for this sum. You should try to find out how the conservatee spends the money, however, in case you need to make adjustments later, and you should keep the allowance amount modest. Don't give the conservatee cash unless you have received court permission to pay an allowance.

Income. Record all income paid to the conservatee, including the date it was received, the amount, and its source. If possible, photocopy every incoming check.

Expenditures. For every check you write on the conservatorship account, write in the register its date, to whom it was paid, and what it was for. Keep receipts for all purchases in chronological order, and write the check number and the date paid on each receipt.

See the sample checkbook register that follows as an example of how to keep track of income and expenditures.

SAMPLE CHECKBOOK REGISTER

PLEASE BE SURE TO DEDUCT ANY PER-CHECK CHARGES OR SERVICE CHARGES THAT MAY APPLY TO YOUR ACCOUNT										
CHECK NO.	DATE	CHECKS ISSUED TO OR DESCRIPTION OF DEPOSIT	(-) AMOUNT OF CHECK		✓	(-) CK FEE	(+) AMOUNT OF DEPOSIT		BALANCE	
									229	73
-	4/1	Social Security (April)					540	00	769	73
401	4/2	Pacific Bell for 3/2	26	00					743	73
-	4/3	Hamilton Federal Bank Interest (1st Quarter)					85	90	829	63
402	4/3	Ben Casey, MD (3/15) Office Visit - earache	53	00					776	63
-	4/5	Rental Income 110 Church Street #B (Mar.)					995	00	1,771	63
-	4/5	Rental Income					875	00	2,646	63
403	4/7	Millard Fillmore Savings Mortgage Payment (4/2)	850	00					1,796	63
-	4/8	ABC Mfg. Co. Pension (Feb.)					320	00	2,116	63
404	4/9	Clerk of Superior Court - Certified Letters	4	00					2,112	63
405	4/10	Cash to housekeeper for misc. personal ex. (3/2)	20	00					2,092	63
-	4/11	Medicare Reimbursement for Ben Casey, MD (2/5 visit)					41	00	2,113	63

The importance of keeping complete records. If you follow the record-keeping tips in this handbook, it will be easier for you and your lawyer to prepare reports required by the court. *The importance of keeping complete records cannot be overstated.* Conservators often regret not setting up an adequate record-keeping system from the start, because trying to piece together the information later from memory and old bank statements is difficult and time-consuming, and it may be expensive as well. The court has the authority to make you pay for this added expense out of your own pocket.

Transactions involving key assets. You may be asked by a judge to explain transactions that involve key estate assets. Be prepared by keeping accurate records and keeping all documents related to transactions involving the following:

- Rentals of property owned by the conservatee

- Sales of the conservatee's real estate and personal property
- Insurance claims that have been paid
- Debt repayments—write down the interest rate and list the security for the debt
- Transactions involving stocks or bonds owned by the conservatee

Keep track of all cash dividends or bond interest, stock dividends, and stock splits and make sure that you make note of any automatic cash dividend reinvestments. These transactions often don't show up in your check register and therefore are easy to overlook.

If the estate includes stock of a number of publicly traded companies, or a large number of shares of one or two public companies, you should consider opening a stockbrokerage account in your name as conservator and depositing the stock into the account. The broker's regular account statements will help you when you prepare your account and report.

D. Monitoring the Conservatee's Actions

As conservator, you are responsible for knowing what your conservatee is doing or wants to do about financial or property matters—and whether anyone is trying to influence or pressure him or her. If you think that the conservatee is doing things that might damage him or her financially, or that you might have to fix later, check with your lawyer right away. **L** You are the person who is ultimately responsible for the conservatee's finances.

E. Monitoring the Conservatee's Assets That Are Controlled by Others

Sometimes some of the conservatee's property may be controlled by another person or institution—for example, a husband, wife, domestic partner, or trustee. As conservator, you must know how this property is being invested and used for the conservatee. If you have questions or concerns, ask this other person or institution. If you still aren't satisfied, bring your concerns to the attention of a judge, with your lawyer's help.

▣ Section 5.8, part M, later in this chapter has more information about trusts.

F. Managing Investments and Retirement Plans

When you invest the conservatee's money and make decisions about his or her retirement plans, you are held to a higher standard of careful conduct than when you invest your own money or decide about your own retirement.

Making investments. As conservator, you are expected to invest prudently and to protect estate assets. This means avoiding risky investments, but planning for reasonable growth, usually with a variety of investments.

Review the conservatee's existing investments to see whether they are still appropriate for his or her age, life expectancy, income requirements, and financial resources. Discuss any changes with the conservatee, if possible. You should also discuss your investment plans with your lawyer, tax advisor, and securities broker before taking action. Be sure to include in these discussions *any* plans to sell estate assets, whether you plan to reinvest the money from the sale or have some other purpose. There can be serious income tax consequences, for example, when you sell an asset that the conservatee has owned for a long time. See also the discussion about selling assets in section 5.8, part G, later in this chapter. ▣

Automatic reinvestment of cash dividends is allowed, but this type of transaction is difficult to keep track of for purposes of your accounting to the court. (See section 5.9 and Appendix D for more on your account and report.)

Handling retirement plans. Many conservatees have one or more pension plans, IRAs, or other retirement plans, such as a 401(k) plan, a Keogh plan, or a plan for **deferred compensation**.

You will need to determine the conservatee's rights and benefits under any plan. You should discuss such plans with your lawyer, especially if money is not already being withdrawn or distributed from a plan on a regular basis. It is your duty to protect the conservatee's interest in such plans, taking into account his or her financial needs and the tax consequences of withdrawals or distributions. **L**

If the conservatee is already withdrawing money or receiving distributions from a retirement plan, check with the plan administrator to find out about any rights the conservatee has under the plan. Indeed, you should do so even if the conservatee is not yet withdrawing or receiving money from a plan. You will still need to determine the conservatee's future rights under it. For example, when the conservatee reaches a certain age, certain elections may have to be made, or a minimum withdrawal or distribution may be required.

G. Selling or Borrowing against Estate Assets

You may need to sell estate assets if, for example, there isn't enough money to support the conservatee, or an unused car is losing its value. You may need a judge's approval to sell or borrow against certain assets, so check with your lawyer before you act. **L**

Selling the conservatee's assets or using them to borrow money for the conservatee's living expenses can have consequences in a number of areas:

- The conservatee's current or future eligibility for public assistance programs such as SSI, Medi-Cal, and In-Home Supportive Services may be affected by receipt of the proceeds of a sale or loan, or by increased income earned on those proceeds when they are reinvested.
- There may be income tax consequences, such as a large capital gains tax.
- There may be less property for the conservatee's heirs.

Think these consequences through carefully and get the advice of your lawyer, your tax advisor, and any involved public assistance agencies. **L**

Selling the conservatee's personal residence. Because selling the conservatee's present or former personal residence (as defined in section 4.2, part B, of chapter 4) may have an enormous effect on the conservatee, you must explore all other alternatives first, including in-home care for the conservatee. If no other solution can be found, you must obtain special court permission for the sale. A judge will not allow you to sell the conservatee's personal residence unless you have discussed the proposed sale with the conservatee and have told the judge why the sale is necessary and what the conservatee wants. The court may send a court investigator to interview the conservatee to be sure the conservatee knows about the sale and to find out what he or she wants. If the conservatee does not want the home sold, the court may appoint a lawyer, at conservatorship estate expense, to represent the conservatee at the time you request court authority for the sale.

Alternatives to giving up the conservatee's home. When the conservatee is low on cash, there are several ways to use the conservatee's home to get money to pay for in-home care and other things the conservatee needs to stay at home. Each of these methods has advantages and disadvantages. You will need a judge's approval before taking any action. Ask your lawyer and your tax advisor about these alternatives:

- **Sale of a remainder interest.** The home is sold to a new owner. The conservatee is allowed to live in the home for the rest of his or her life. Often the buyer and seller will agree that the conservatee's estate will be responsible for upkeep. The selling price will be less than it would be if the conservatee's entire interest in the property was sold because the conservatee becomes a "free tenant," and the new owner has to wait to use the property.
- **Sale with leaseback.** The home is sold for its full value, and the conservatee becomes a rent-paying tenant.
- **Rental.** Sometimes it makes more financial sense to retain the conservatee's home and rent it out rather than sell it. That is especially true if the conservatee has owned the home for a long time. The sale of the home in that situation may incur a large capital gains tax. See also section 5.8, part K, later in this chapter, for information about managing rental property.

- **Home equity loan.** If the conservatee qualifies, a home equity loan will provide a lump sum of cash. The estate will then have to make monthly loan repayments. If the value of the home increases, it can be sold for full market value at a later date. These loans typically have variable interest rates that may increase in the future.
- **Reverse-annuity mortgage (RAM).** In many respects a RAM is the reverse of a regular mortgage. With a RAM, the lender gives the conservatee monthly loan installments. At the end of the loan, often when the conservatee dies, the debt usually is repaid by selling the home. The size of the monthly installments depends on the value of the home, the loan's interest rate, the length of the loan, and the loan's closing costs and related expenses.

Conservatorship sale requirements. Once you have decided to sell some of the conservatee's property, and after you have obtained permission from the court, if required, you must follow detailed and often complicated rules and procedures to complete the sale. These vary depending on the type of property sold and the reasons for its sale, but following are highlights:

- The sale must be for a purpose authorized under the law. The authorized purposes are
 - ▶ sales that are necessary because the estate's income is insufficient for the comfortable support and maintenance of the conservatee;
 - ▶ sales that are necessary to pay some (but not all) of the conservatee's debts; and
 - ▶ sales that are for the advantage, benefit, and best interests of the conservatee or his or her estate.
- To sell some kinds of personal property and all real property, you must post a notice of intent to sell in the courthouse and publish the notice in a newspaper.
- The terms of sale may be for all cash or part cash and part deferred payments, subject to approval of the court and subject to requirements for the security received by the conservatorship estate for the deferred payments.

- Most sales of real property, and personal property sold with it as a unit, must be *confirmed* by the court at the request of the conservator. Confirmation is a form of court approval after the conservator has agreed to sell the property to a specific buyer on agreed terms. The order confirming sale follows a hearing at which interested buyers other than the original buyer may appear and bid on the property. The court actually conducts an auction at the hearing. The order confirming sale is in addition to any order that may be required before the sale. Once a sale has been confirmed by the court, its propriety and terms cannot be questioned.
- The petition for confirmation of sale and the order confirming sale are Judicial Council forms GC-060, Report of Sale and Petition for Order Confirming Sale of Real Property, and GC-065, Order Confirming Sale of Real Property. Links to these forms are included in Appendix F.
- Stocks or bonds that are listed on established exchanges or traded in the over-the-counter market may be sold without prior court approval or subsequent confirmation. However, such sales are subject to review and may be questioned at the time of the next account and report.
- Stocks or bonds that are ineligible for sale under the previous paragraph, and personal property, such as an unused car that is depreciating in value or would incur loss or expense if kept, may be sold with prior court approval. That approval can be obtained immediately on application, without a fully noticed hearing. That kind of application is called *ex parte*, meaning without notice to others. The applications and orders authorizing the sale are Judicial Council forms GC-070, Ex Parte Petition for Authority to Sell Securities and Order, and GC-075, Ex Parte Petition for Approval of Sale of Personal Property and Order. Links to these forms are included in Appendix F.

In addition to court approval and other requirements, the sale of a conservatee's property may require special language in agreements with real estate brokers, escrow companies, buyers, and others. All parties should be aware of the unique requirements of these sales. Try to deal with real estate brokers and others who have prior experience with them. You should also consult closely with your lawyer concerning all aspects of a sale of any of your conservatee's property. **L**

CAUTION: Selling or borrowing against estate assets can affect a conservatee’s eligibility for SSI, Medi-Cal, In-Home Supportive Services, and other public assistance programs. Check with these public assistance agencies to find out how additional cash proceeds of a sale or loan, or additional income earned on the proceeds, might affect the conservatee’s eligibility.

H. Securing Adequate Health, Life, and Property Insurance

Check with the conservatee’s insurance agent to see whether the conservatee and his or her property are adequately insured. If the conservatee doesn’t have enough or the right kind of insurance, decide what’s needed and arrange to buy it.

Pay any past-due premiums right away to avoid a lapse of coverage.

If the conservatee has duplicate or unnecessary insurance policies (which often happens when a confused person responds to television or newspaper ads), discuss them with your lawyer and the conservator of the person to decide which policies, if any, should be canceled. **L**

Health insurance. Adequate health insurance for the conservatee is very important. You and the conservator of the person should figure out what care the conservatee will need so that appropriate health insurance is obtained. The conservatee may need supplemental Medicare insurance, for example. However, don’t cancel an existing policy that provides coverage until you have completed arrangements for alternative coverage.

See chapter 4, section 4.3, part A, for more information about health insurance.

See also Appendix A, Guide to Medicare, Medi-Cal, and Other Health Insurance.

Life insurance. Review the conservatee's life insurance policies. Before you change the amount of coverage or borrow against the policy, ask your lawyer whether court approval is needed. **L**

You must have court approval to change the beneficiary of an insurance policy, even if the current beneficiary is deceased.

Employer's liability insurance and workers' compensation. If the conservatee or conservatorship estate employs anyone—for example, an aide, housecleaner, gardener, driver, handyman, or other service provider—make sure that there is proper workers' compensation insurance protection in case the employee is injured on the job. Do not assume that this will be covered under the conservatee's homeowner's insurance. If the employee comes from an agency or registry, do not assume that the agency or registry is providing the necessary coverage. It is your responsibility to verify that there is proper coverage.

Property insurance. If the conservatee owns a building, make sure that it has enough fire and public liability insurance. Cars driven by the conservatee or the conservatee's spouse must be insured. Cars, real estate, and household belongings should be insured for their replacement value against fire, theft, and other hazards and against harm to third parties. Include coverage for work-related injuries of household help. You don't need a judge's approval to take out these types of policies.

If the conservatee owns a vacant building, verify with the conservatee's insurance broker, if known to you, or if not, with an agent for the insurance company identified in an insurance policy that you find in the conservatee's effects concerning the vacant property, that there is insurance coverage in place for the property. Try to get any representations concerning insurance coverage in writing.

If there is no insurance coverage, check with the broker or agent, or your own insurance broker or agent, to see if coverage is available for the property. You may find it impossible to get insurance for a vacant building, particularly if it is in a dilapidated condition. In that event, you may have to demolish the building or sell the property quickly. You should consult closely with your lawyer when a vacant building is in the conservatorship estate. **L**

I. Paying Taxes

You are responsible for filing income tax returns for the conservatee. File tax returns for the conservatee on federal Form 1040 and California Form 540. You may hire a tax preparer to help. Make sure that real estate taxes, personal property taxes, gift taxes, and employment taxes are paid on time. The “Checklist for Hiring and Paying an Aide,” in section 5.8, part J, below, discusses employment taxes for aides.

If you can't find a copy of the conservatee's past two federal and state tax returns, write to the Internal Revenue Service and the California Franchise Tax Board to request copies and to find out if all returns have been filed. See the sample letter that follows. It contains the conservatee's social security number. This disclosure cannot be avoided, just as with the sample letter to the Social Security Administration.

You may request copies of federal income tax returns by completing and delivering IRS Form 4506, Request for Copy of Tax Form.

You must also notify the IRS that you are the person now responsible for tax filing and payment on behalf of the conservatee. You may use IRS Form 56, Notice Concerning Fiduciary Relationship, for this purpose.

SAMPLE LETTER FOR TAX RETURNS

2451 Folsom
Oakland, CA 94619
January 8, 2015

Internal Revenue Service
Fresno, CA 93888

—or—

Franchise Tax Board
Sacramento, CA 94267-0031

If the conservatee sometimes uses a variation on his or her name, such as a middle initial or maiden name, provide that information after "also known as."

→ RE: Conservatorship of the Estate of Edna Mae Washington,
also known as Edna Mae Johnson

Conservatee's social security number: 111-22-3333

Dear Conservatorship Coordinator:

I have been appointed conservator of the estate of Edna Mae Washington. A certified copy of my Letters of Conservatorship is enclosed.

Please send all future correspondence concerning the conservatee to me at the above address. Also please send me a copy of the last two income tax returns that were filed by the conservatee, or a copy of any form necessary to obtain these returns.

Thank you.

Very truly yours,

Earl Washington
Conservator of the Estate of
Edna Mae Washington

Enclosure: Certified copy of Letters of Conservatorship

J. Hiring and Paying Aides for the Conservatee

If you or the conservator of the person have employed an aide for the conservatee, you are responsible for paying the aide; paying payroll taxes such as social security, Medicare, and unemployment; filing tax reports; and obtaining workers' compensation insurance. If you hire an aide through an agency, you will be spared most of these duties.

You must not hire your family members to provide services to the conservatee for a fee or salary, as an aide or in any other capacity, if other alternatives are reasonably available. If your family members do provide such services, your relationship to them must be fully disclosed to the court and the terms of their engagement must be in the best interests of the conservatee compared to the terms of engagement available from independent service providers. Services performed by family members must be competently performed, and you must be able to exercise appropriate control and supervision despite the family relationship.

See the "Checklist for Hiring and Paying an Aide," which follows.

For more information on in-home aides, see chapter 4, section 4.7, part C.

KEEPING GOOD EMPLOYMENT RECORDS

Keep these records for at least four years:

- Your employer identification number
 - The amounts and dates of all wage payments
 - The value of noncash compensation such as meals or lodging
 - The aide's name, address, social security number, and a forwarding address
 - Copies of all W-4 forms
 - The amounts and dates of tax deposits you have made
 - Copies of all employment tax returns you have filed
 - The dates of employment for each aide
 - The reason for an aide's termination (If you fire an aide, be sure to record the reasons.)
 - Detailed records of the aide's job-related illnesses or injuries
-

CHECKLIST FOR HIRING AND PAYING AN AIDE

Check the aide's U.S citizenship or legal residency.

You must ask a new employee, including an aide, to show you proof of eligibility for employment, and then you must fill out and hold a U.S. Citizenship and Immigration Services (USCIS) Form I-9 for the employee. The purpose of this form is to prove that the aide or other employee is a U.S. citizen or legal resident. If you hire someone without completing this form, you could be fined civilly. Repeated violations could lead to criminal prosecution.

If you need more information, contact the nearest USCIS office to request USCIS Form M-274, Handbook for Employers.

Obtain workers' compensation insurance.

Anyone who works in the conservatee's home must be covered for injuries that take place on the job. You can usually get workers' compensation coverage from the conservatee's homeowner's or renter's insurance company for an additional premium.

Follow federal and state wage and hour rules.

Pay or withhold employment taxes.

You may be responsible for several employment taxes. These taxes are based on the aide's taxable wages. Wages may include meals, lodging, health insurance, and other items provided by you as employer, unless they are for your convenience and are not compensation.

For help employed in the home, federal and state income taxes need not be withheld unless you and the aide agree to withhold them. Possible withholding taxes are as follows:

Federal income tax

If you and the aide agree that you should do so, withhold federal income tax. Use the current year's IRS Publication 15 to calculate this tax.

California income tax

If you and the aide agree that you should do so, withhold state income tax. Use the current year's Employment Development Department (EDD) Publication 44, California Employer's Guide, to calculate this tax.

Social security and Medicare

The conservatorship estate must pay half of this tax; the other half is withheld from the aide's wages. Use the tables in the current year's IRS Publication 15.

California disability insurance fund

Use EDD Publication 44 or 4525, Unemployment Insurance Program Business Plan, to figure this withholding tax.

State and federal unemployment insurance

The conservatorship estate, and not the employee, pays these unemployment insurance taxes.

Get a federal employer identification number.

You can obtain Form SS-4, Application for Employer Identification Number, from the nearest IRS office.

Have the aide complete federal tax Form W-4.

If you and the aide agree to withhold income taxes, the W-4 form gives you the information you need to know how much tax to withhold from the aide's pay. If the aide hasn't given you a completed W-4 form by the time you first pay him or her, and the two of you have agreed that you will withhold federal and state income taxes, you must withhold the maximum tax (single with no withholding allowances).

Register with the California Employment Development Department.

You can obtain Form DE-1 from an EDD office. This form must be filed within 15 days of employing and paying a household worker wages of \$750 or more in any calendar quarter.

File tax reports.

Deposit withheld taxes with the appropriate agency.

At set times, you must deposit withheld state and federal income taxes and social security, Medicare, and disability insurance taxes with the state and federal governments. Check with the IRS or the EDD to find out when payments are due.

- File a summary of employment taxes paid.**
By April 30, July 31, October 31, and January 31, you must file a summary of state and federal employment taxes that you have paid to the government in a calendar quarter. Use Form 941-SS for federal taxes and Form DE-3BHW for California taxes.

You must file every quarter, even if you didn't employ anyone for a particular quarter. There may be a penalty if you don't file. If you stop employing aides, write "FINAL RETURN" on the top of your last quarterly return.

- Give the aide a W-2 form.**
You must give the aide a federal Form W-2 by the end of January of each year. Send a copy of the W-2 form to the Social Security Administration by the last day of February.

- Report unemployment tax.**
Mail federal unemployment insurance tax returns on Form 940 for the previous year by January 31. File California unemployment insurance tax returns quarterly on Form DE-3HW.

You might want to consider hiring a payroll services firm to handle some or all of this employment paperwork.

Online Forms and Publications

Many tax forms, tax publications, and other agency forms or publications may be obtained through websites maintained by the agencies.

Internal Revenue Service: www.irs.gov or telephone 1-800-829-1040

Franchise Tax Board: www.ftb.ca.gov or telephone 1-800-852-5711

U.S. Citizenship and Immigration Services: www.USCIS.gov or telephone 1-800-375-5283

K. Managing Real Property

The most challenging task for a conservator of an estate that includes real property is to manage property that is or will be occupied by residential or business tenants. There are also other difficult issues that may affect estate real property, whether or not it is leased or rented.

Rental property. The estate may contain property that is being rented or should be prepared for rental. Perhaps you have decided to lease or rent the conservatee's home rather than sell it, or the conservatee already owns rental property. As conservator, you now have all of the legal responsibilities of a landlord regarding this property. Whether the property is small or large, you must comply with all of the laws regulating the rental of property.

Property management can be very complicated. There is a risk of loss to the estate if you do not handle it properly. If the estate has, or plans to have, rental property, you should discuss the situation fully with your lawyer to make sure you have the necessary information and advice. One of the things you and your lawyer will want to consider is whether you should hire a professional property management firm to manage the rental property. See the discussion that follows. **L**

Some of your responsibilities relating to rental property include the following:

- Making sure that you have proper leases or rental agreements with all new tenants
- Reviewing existing leases or rental agreements, or obtaining new ones, if the conservatee did not have them
- Making sure that the conservatee has set aside all legally required tenant deposits in a separate account
- Making sure that the property is safe and in compliance with all fire, building, and safety codes (See also the discussion that follows regarding disposal of toxic waste.)
- Making sure that proper and sufficient fire and liability insurance covers the property *as rental property* (especially when converting the conservatee's home to rental property for the first time)

- Collecting all rents due the conservatee, and taking necessary actions against all nonpaying tenants
- Paying all expenses of the property—such as insurance, property tax, mortgage, gardening, repairs, and utilities—if the tenant does not pay them directly
- Keeping clear records of all rental property income and expenses, for use when the conservatee’s tax returns and your accounting are prepared
- Respecting the tenant’s legal rights
- Learning about and complying with all local rent control ordinances or regulations

Owners of large residential rental properties often hire professional property managers to handle these tasks. Unless you are an experienced property manager, live near all of the conservatee’s properties, and have the time to devote to property management, you should seriously consider using a property manager for residential rental property of any size, and for any leased or rented commercial or industrial property.

If you hire or retain a property manager, remember that you as the conservator are still the person responsible for supervising the manager’s activities, making sure that all of the necessary work is done properly and that the manager gives you clear, complete, and correct reports.

Megan’s Law requirements. Megan’s Law requires registration of the names and area of residence of known sex offenders against children. Anyone who sells or rents out any real property must disclose to buyers or renters that they can look up this information at local police stations. You need to check to see that the sale or rental listing form you are using contains information about this law.

Property containing toxic waste or causing pollution. Property owned by the conservatee may contain toxic waste or materials. There are very strict laws—federal, state, and local—about how such materials must be handled and about pollution generally. Violating any of these laws can result in prosecution or large fines. Payment for fines could come out of your own pocket if a court determines that you did not act properly in observing these laws as conservator.

It is important for you to learn how property has been used or is currently used and to determine whether it may contain toxic materials or whether it is causing pollution. If there is any risk that toxic materials may affect estate property, check with your lawyer to find out how to comply with the law and protect both the estate and yourself. **L**

Toxic materials and pollution may include the following:

- **Residential property.** Old paint, household or garden chemicals, pest poisons, waste motor oil, used batteries, automotive chemicals, and asbestos
- **Commercial or undeveloped property.** Chemical waste, medical waste, underground fuel or chemical tanks, water or air pollution, improper dumping, and improper sewage disposal

Vacant property. If the conservatorship estate owns vacant houses, buildings, or land, it is your responsibility to make sure that the property is properly insured, fenced or otherwise secured, and kept clean and in compliance with all local fire and safety laws. If you can't do these things, you may have to sell the property. See section 5.8, part H, earlier in this chapter, for information on insurance for vacant property. Consult your lawyer about how to handle vacant real property of any kind. **L**

L. Conservatee's Will

A will is an important and very private document. If you find the original or a copy of the conservatee's will, store it in the safest possible place, such as in the conservatorship safe deposit box or with your lawyer, particularly if he or she has an office safe. Keep all wills you find—not just the latest one, the one you think is the fairest, or the one you think the conservatee really wants.

CAUTION: California recognizes handwritten wills. They don't have to be witnessed or follow any particular format. What you think is merely a note, a memo, or an unmailed letter may be a legally valid will. Check with your lawyer if there is any possibility that a handwritten document you find might be a will. **L**

Do not talk about any of the conservatee's wills with anyone but the conservatee and your lawyer. Make sure that you do discuss the conservatee's wills with your lawyer. **L**

You may find that the conservatee already has given his or her will to a lawyer for safekeeping. If you need to know what is in the will and the lawyer won't tell you, ask your own lawyer what to do. **L**

The will may contain information you need, such as the following:

- The name of the **executor**
- The conservatee's request for specific funeral or burial arrangements and who is supposed to make them
- Whether the conservatee wants to leave someone a specific piece of real or personal property, which you need to know if you are planning to sell or make a gift of any property so you won't sell the property left to someone in the will or give that property to someone else

The conservatee does not lose the legal right to make a new will or to amend an existing will because of the conservatorship. However, whether any change in a will made by a conservatee is effective will depend on the conservatee's mental competence at the time the change is made. The fact that a conservatorship is in place will be a factor in resolving that issue.

If the conservatee asks you to help him or her change a will or prepare a new one, contact your lawyer for advice about what to do. **L** If the conservatee has a court-appointed lawyer, let him or her know as well.

If you believe that the conservatee's proposed change is appropriate but his or her mental competence is likely to be questioned by someone adversely affected by the change, you may request the court to authorize you to sign a new will or an amendment to an existing will on behalf of the conservatee. This kind of request is known as a **substituted judgment petition**. Such petitions are made in a wide variety of situations. However, they can be very complex and are often difficult to prepare. You should not try to prepare and file a substituted judgment petition without a lawyer. **L**

M. Trusts

The conservatee may be involved in a trust that contains some or all of his or her property, or that pays money or distributes other property to him or her. It is your responsibility to protect all trusts that concern the conservatee. Trust papers should be kept in a safe deposit box. Trusts should be kept confidential: discuss them only with your lawyer and, as to each trust, with the trustee of that trust. **L**

Look carefully at any trust that affects the conservatee, especially one that the conservatee set up. Contact the trustee identified in the trust documents and your lawyer. **L**

Ask yourself these questions:

- Did the conservatee understand what he or she was doing when the trust was set up, when it was amended, or when he or she transferred property to the trustee?
- Is the trustee administering the trust and its property in the manner called for in the trust documents?
- Is the trustee acting in the conservatee's best interests?

If the answer to any of these questions is no, get your lawyer's advice about what to do. In any event, stay informed about what the trustee is doing. **L**

If the trust documents give the conservatee powers over the trust or over property held by the trustee, such as the power to modify or to revoke the trust or the power to designate who receives trust property (a **power of appointment**), you may ask the court for authority to exercise the power. This request would be another example of a substituted judgment petition, discussed in section 5.8, part L, earlier in this chapter. **L**

Sometimes the court will authorize a conservator to establish a new trust for the benefit of the conservatee and others and to transfer some or all of the conservatee's property to the trustee of the trust. This is often a better way of creating an estate plan for the conservatee than signing a new will and is one of the more common uses of the substituted judgment petition. **L**

N. Making Funeral and Burial Arrangements

When you look for assets and important papers, try to find out what arrangements, if any, have been made for funeral services, burial, or cremation. Documents describing these arrangements are often found in the conservatee's home or in a safe deposit box. These arrangements may be mentioned in the conservatee's will or in a document known as a **power of attorney for health care**. You also may find a funeral or burial prepayment receipt or insurance policy.

If the conservatee had a spouse or other close family member who recently died, ask the funeral home or cemetery that handled those arrangements whether the conservatee has made funeral arrangements for himself or herself. The death certificates of deceased family members usually note the name of the funeral home and cemetery.

Ask the funeral home if the conservatee has signed all the necessary papers, such as a cremation authorization. Some documents may be signed only by the conservatee or his or her next of kin.

If your research doesn't turn up anything, ask the conservatee what he or she prefers, if the conservatee is able to discuss it comfortably and clearly. If you can't discuss this with the conservatee, plan what you will do when the conservatee dies.

If the conservatee's will says that the executor should make funeral or burial arrangements, contact him or her as soon as you learn of the conservatee's death. If there is a person with authority to act concerning these arrangements under a power of attorney for health care, contact him or her as soon as you can. If the conservatee is in a **care facility**, its business office will ask you for the name of the funeral home. In any case, don't leave the conservatee's funeral or burial arrangements until the last minute.

5.9 Reporting and Accounting to the Court

Even if you read nothing else in this handbook, you should read and consider very carefully the following discussion of your accounting responsibilities as the conservator of an estate. If you have any questions about anything you read in this section of the handbook, discuss them with your lawyer immediately. **L**

What accounts are and when they are due. You must report to the court on your activities as conservator of the estate no later than one year after your appointment, at least once every two years after that, and when your duties as conservator end. The report should be typewritten or prepared on a computer and contained in a document called a *petition* or a *petition and report*. The petition and report should describe what you have done during the time period covered by it and should petition, or ask, the judge to approve your actions. It should also describe the general physical condition, type of residence, level of care, and other circumstances of the conservatee.

The petition and report must be accompanied by a detailed accounting of all transactions in the conservatee's property that occurred in the period covered by the report. The accounting is similar to a business's financial statements, explaining the estate in dollar figures and giving details of estate receipts and expenditures.

The petition and report should explain any entries in the accounting that cannot be readily understood and should describe any sales or other changes in the assets of the conservatorship estate and any other unusual financial transactions. If you or your lawyer want the court to authorize payment of compensation to you from the conservatee's estate for your services during the period of the report, your requests would also be included in the petition and report.

The accounting, report, and petition are parts of one document. They are sometimes referred to together as the **accounting**, the **account**, or the **account and report**. In this chapter, the term *accounting* refers to the accounting portion of the document only, *report* or *petition and report* refers to the report portion of the document only, and *account* or *account and report* refers to the entire document.

WHAT MUST BE INCLUDED IN AN ACCOUNTING

- The value of assets on hand at the start of the reporting period
 - The amount of any supplemental appraisals during the reporting period
 - All income received by the conservatorship estate during the reporting period
 - Gains and losses from sales of assets during the reporting period
 - All expenditures of conservatorship funds during the reporting period
 - The value of assets on hand at the end of the reporting period
-

Format of the accounting. The accounting must be prepared in a special format required for probate accountings. The petition and report are narrative statements. If you have a lawyer, he or she will generally prepare the petition and report, although you will provide the lawyer with most of the information needed to complete that task. You and your lawyer should work out who will prepare the accounting. The rest of this section of the handbook will help you do that. **L**

See Appendix D, Sample Account and Report, at the back of this handbook.

The first and subsequent accounts and reports. Each account covers a period of time with specific beginning and ending dates. When the conservatorship ends and the conservator has been discharged, every day it was in effect will have been included in a period covered by an account and report.

The first account and report covers a period that begins on the date that Letters of Conservatorship were issued or sometimes on the earlier date that Letters of Temporary Conservatorship were issued. The period usually ends on the last day of the month before or including the first anniversary of the beginning date. Subsequent accounts may cover up to two-year periods, beginning with the day after the ending date of the prior account, although the conservator may choose to account for shorter periods. The final account covers the period from the day after the ending date of the last prior account to the date that the conservatorship ends, either by the conservatee's death or restoration to capacity or by removal of the conservator. An account that is not a final account is also called an **account current**.

Some courts schedule hearing dates near the due dates of accounts and reports to monitor their preparation and to see that they have been filed on time. If your court does this and you miss the deadline, you and your lawyer may have to appear in court on the scheduled date and explain why you failed to file your account and report on time. If the account is on file by the scheduled hearing date, the court usually excuses attendance in court on that date.

Courts that do not regularly schedule this kind of hearing still monitor their conservatorship files. If an account and report becomes seriously past due, the court may order you to appear to give an explanation, order you to file the account and report by a specific future date, or even remove you as conservator. If you are removed, you will still have to complete and file your account and report.

Whether or not the court schedules a hearing to monitor the completion and filing of an account, every account and report that is filed is assigned a hearing date, usually about a month after it is filed. Your lawyer is generally expected to attend this hearing to answer any questions the court may have concerning the account. If your lawyer attends the hearing, he or she may need your presence in court as well. **L**

Your lawyer must mail advance written notice of the time and place of the hearing on your account and report to the conservatee and to others interested in the conservatorship, and he or she may also be required to send complete copies of the account and report to these persons. **L** The written notice is prepared on Judicial Council form GC-020, Notice of Hearing—Guardianship or Conservatorship. A link to this form is included in Appendix F.

If you do not have a lawyer, you will generally be required to attend the hearing on your account and report and will have to see that the written notice is sent.

If the persons given notice don't object to the account and report, the court will still carefully examine it and may raise questions about it that you must answer. You should be prepared to attend the court hearing on the account and report even if no objections are filed against it.

If the conservatee or someone else with an interest in the conservatorship files written objections to the account and report or appears at the hearing and advises the court that he or she intends to file them, the hearing will be postponed to give that person an opportunity to do so. After the objections have been filed, the account and report will proceed as a contested matter.

Each court has its own way of handling contested accounts. At the very

least, however, the matter will not be resolved quickly unless the parties involved can settle their differences in a way satisfactory to the court. You should not attempt to defend your account and report against objections without a lawyer. **L**

Preparation of the accounting. Presentation of your account and report to the court is the most important step in your management of the conservatorship estate. You can't afford to wait until the last minute to prepare the accounting portion of the account and report. Therefore, your preparation of the accounting should begin as soon as you begin managing the conservatee's assets. All financial transactions must be carefully documented and organized so the accounting can be thoroughly, promptly, and accurately prepared. The following suggestions will help you reach this goal.

- Place each statement or other document that is received or created by you for each conservatorship asset or bank account in chronological order in a separate file for that asset or account. Review these documents periodically to make sure that none are missing. If any are missing, take steps immediately to obtain replacement copies so that your records remain complete.
- Check statements from banks, stockbrokers, and other institutions promptly on receipt, and **reconcile** the cash accounts. Delay in reconciliation may result in the loss of the right to recover missing funds caused by bank errors. Personal finance software is very useful for reconciling cash accounts.
- Investigate automatic deposits and payments to and from the conservatee's existing bank accounts as soon as you become aware of them because they may disclose additional property or estate obligations you didn't previously know about.
- You should not generally arrange for automatic payments from any conservatorship account you establish because it is too easy to forget that such payments have been made when you prepare your accounting many months later.
- Automatic deposits to an account, like social security payments, cause fewer difficulties than automatic payments from the account, but you should enter them in your check register at the same time every month, no later than the time you get your statement for the account showing the deposit, and you should be alert to periodic changes in the amounts deposited. All automatic deposits should be made to the main conservatorship checking account rather than to a savings account.

- You must keep track of interest deposits to savings accounts that are not reflected in your check register. Don't rely on passbook-type accounts. You should arrange for all savings accounts to provide monthly or quarterly statements showing interest income and withdrawal activity.
- Withdrawals from savings accounts to meet estate expenses should be deposited into the estate checking account and spent from there rather than directly from the savings account.
- You should try to pay every expense by check rather than cash. If you find it necessary to spend small amounts of cash, it is better to spend your own cash and seek reimbursement from the estate by check rather than to carry estate cash with you for this purpose. In any event, make sure that you get a receipt for all cash purchases and make a note of what was bought, the amount of cash spent, the purpose of the purchase, and the date of the transaction.
- Note the source of each deposit to the checking account in the check register so you will be able to reconstruct the transaction when you prepare your accounting. Most of the time, it is a good idea to use only one checking account for all of the conservatee's finances. However, if you are managing one or more pieces of real property that generate income as well as expenses, you might consider using a separate checking account for each property. If you do that, make sure that each account receives deposits only from income received from the property assigned to it, and that payments are made from that account only for expenses associated with that property. Be alert to bank charges deducted directly from these separate accounts.
- Stockbrokerage accounts may come with money market accounts attached to them that earn interest and allow check-writing privileges. This kind of account is useful because it enables the estate to earn interest on amounts invested with a broker that are temporarily not being used to purchase stocks, bonds, mutual fund shares, or other investments sold by the broker. However, you should not routinely pay estate expenses directly from this account. Instead, you should periodically transfer excess cash from it to your regular conservatorship bank account and then pay all expenses from that account. You should also be alert to automatic interest deposits to this account and automatic deductions from it for broker fees and other charges.

Court requirements for accountings. The law and the court impose high standards on you as conservator in the management of the conservatee's estate. Each transaction must be accounted for in sufficient detail to inform the court as to how and why the conservatee's money was spent, what was sold or purchased, and how well income was collected during the period of the account. Every item of income and every expenditure must be described in your records and in the accounting, showing the following about each transaction, in addition to its date and its amount:

- To whom a disbursement was paid, or from whom income was received
- The time period covered by the payment (example: "Rent for May 2015")
- The purpose of the expenditure (example: "Clothing for conservatee")

If you reimburse yourself for expenses paid from your own funds, describe to whom you paid the funds on behalf of the conservatee, the amount of each expenditure, and what good or service was purchased for the conservatee. You must obtain and retain receipts for all of these expenditures and organize them so you can retrieve them if you are required to show them to the court.

At the time you file your accounting, the court will require you to file **original** account statements from banks and other financial institutions or from other institutions such as stockbrokers for all accounts containing cash or assets of the conservatorship estate. The statements must show the balance in each bank account as of the last day of the period covered by the account and report.

The first account and report must also be accompanied by **original** bank statements showing the account balance of each of the conservatee's bank accounts immediately before the date you were appointed conservator (that is the date of the court's order appointing you, not the date that your Letters of Conservatorship were issued). If your account and report shows a balance for any bank account different than the balance shown in the bank's statement for that account, you must explain the differences in your accounting or in your report.

If you could not find the original statements from the conservatee's accounts in his or her papers, you will have to obtain duplicates from the banks or other institutions and explain to the court why you can't file original statements. The time to start arranging for this accounting is as soon as you qualify as conservator, not just before your accounting is due. See the sample letter to the conservatee's bank in section 5.6, part A.

The court or a person interested in the conservatorship may demand that you produce the records that support the transactions shown in your accounting. Keeping your records organized and complete early in the process and thereafter for as long as you are the conservator will enable you to satisfy the requirements imposed on you when you file and present your accounts and reports.

Types of accountings. There are two types of accountings: standard and simplified. A standard accounting is one in which receipts and disbursements (expenditures) are collected in separate subject-matter *schedules* based on the type of receipt (for example, dividends, interest, rent, social security or other public benefit payments, and regular pension payments) and disbursement (such as living expenses, investment costs, conservator and attorneys' fees, rental property expenses, etc.). A simplified accounting shows receipts and disbursements in single schedules, in chronological order.

You may always choose to prepare and file a standard accounting, and the court may always direct you to prepare that type of accounting. However, even without court direction, you must prepare and file a standard accounting if

- the estate includes income real property;
- the estate has a whole or partial interest in a trade or business;
- the appraised value of the estate is \$500,000 or more, exclusive of the conservatee's personal residence; or
- the receipts or disbursements schedule, prepared in the simplified accounting format, exceeds five pages in length.

(If a standard accounting is required only because of the length of either or both of these schedules, only the schedule or schedules that exceed the five-page limit must be prepared in the standard accounting format.)

There are Judicial Council forms for the schedules of both standard and simplified accountings. Links to all of these forms are included in Appendix F, and examples of completed form schedules are included in the sample accounting in Appendix D. Form schedules that are *adopted* by the Judicial Council are mandatory and must be used by standard and simplified accounting filers. Forms that are *approved* by the council are optional and may be used by all accounting filers, except dual-use forms designated as GC-400/GC-405. These forms may be used by standard account filers but must be used by simplified account filers even though they are approved rather than adopted. See the lower left-hand corner of each form to learn whether it is mandatory or optional.

There are 48 form schedules. Forms for standard accountings are designated by GC-400, followed by a suffix in parentheses. Simplified accounting schedules are designated by GC-405. Dual-use forms designed for use in both types of accountings are designated by GC-400/GC-405. The most important dual-use form is the Summary of Account—Standard and Simplified Accounts (form GC-400(SUM)/GC-405(SUM)). The totals from all the other schedules are carried forward to this form, which is placed in front of the accounting, following the narrative petition and report. See the sample accounting in Attachment D.

If you prepare a simplified accounting, you must use the Judicial Council forms. But if you prepare a standard accounting, you must use only the Summary of Account. You may choose to use some or all of the rest of the standard accounting forms, but you may also prepare your own schedules. If you use a computer and use accounting software, you may find it easier to prepare your own supporting schedules than to use the forms.

Use of an accountant. Accountings must be prepared in a format unique to probate court accountings. Many accountants are unfamiliar with court accountings, which are considerably different from the business financial statements they usually prepare. If you want to use an accountant, you should try to find one who prepares federal estate tax returns for the estates of people who have died. The format of conservatorship accountings is identical to the format used in decedents' estates. It is to some extent based on the requirements of the federal estate tax return.

You may find that the conservatee's estate is too small to support an accountant's fee for maintaining estate records and preparing accountings, particularly if you are also going to request compensation for your services. Even if you can't afford an accountant for all services, you may be able to consult one as needed, particularly for advice on how to set up and maintain your record-keeping system.

You should check with your lawyer before you attempt to prepare your accounting yourself or before you hire someone to do it for you. **L**

Accountings prepared by your lawyer. Your lawyer may prefer to prepare the accounting, have his or her staff prepare it, or bring in another professional familiar with probate court accountings for this task. **L** If so, you should consider delivering your records or copies of them to your lawyer on an ongoing basis during the year—say, monthly or quarterly—instead of just before an account is due. If you do that, when the due date arrives, whoever prepares the accounting should be able to complete it quickly. If records delivered months before the accounting's due date show a problem, there will be more time to resolve it.

Use of a computer. If you plan to prepare the accounting portion of the account and report yourself, it is recommended that you maintain your records using personal finance software. You will be able to keep detailed records of income or expenses tailored to your needs; can easily reconcile your cash accounts; and may be able to print directly from the program, in final form suitable for filing, some or all of the schedules of your accounting, particularly the schedule of expenditures. See the above discussion concerning the optional use of forms for standard accounting schedules.

Small-estate waivers. Conservators of small estates may be excused from making regular reports to the court, but they still must keep complete records of how they manage their conservatee's income and assets. The court may ask for an accounting at any time, and the conservator will have to give a final accounting at the end of the conservatorship. Ask your lawyer whether the estate you are managing qualifies for a small-estate waiver. **L**

5.10 Making Payments from the Estate

A judge will not automatically approve expenditures that you may believe are in the conservatee's interest. Other people involved in the conservatorship may have a legal right to object to particular expenditures as well. If you aren't sure whether an expenditure is proper, or if you think someone might object, speak with your lawyer before you spend the money. **L**

A. Paying Lawyer's and Conservator's Fees

You, the conservator of the person, the lawyers for each of you, and the conservatee's lawyer will be entitled to receive reasonable fees—compensation for your services—from the conservatorship estate if they are requested and *if a judge first approves them. Never pay these fees without prior court authorization.* If you do, you may have to reimburse the conservatorship estate or the surety company on your bond from your own pocket, plus interest, and you could be removed as conservator.

You may pay without prior court approval costs incurred by your lawyer at the beginning of the conservatorship, including the court's filing fee and the first year's bond premium. This kind of expense is called an *expense of administration*, a direct cost of the conservatorship proceeding. Once the conservatorship has been set up and you have collected the conservatee's funds, you may directly pay expenses of administration without prior court approval.

However, many courts will not allow you to reimburse your lawyer's or your own photocopy and ordinary postage costs or mileage or other local travel and parking expenses, or your lawyer's secretarial and word processing expenses, if you also ask for fees. These costs are considered overhead expenses, to be reimbursed in the compensation approved by the court. Paralegal costs are treated as lawyers' fees, payable only on order of the court. Services performed by paralegals working for a lawyer to be paid from the conservatee's estate must be clearly identified as such, and the paralegals performing them must be qualified under the law and must be current on continuing education required for them. **L**

If you do not ask for compensation for your services, the court may allow you to reimburse yourself for overhead expenses. You will have to keep good records of these expenses and should not reimburse yourself for them until they have been approved by the court.

Other costs, such as express mail charges or extraordinary travel expenses, may be allowed at the discretion of the court. If there is any question, you should defer direct payment by the estate or estate reimbursement of discretionary costs paid by you or by your lawyer until the court has approved them.

You may not ask the court for fees until 90 days after you have been appointed and you have filed the Inventory and Appraisal with the court. However, if you have good cause, you can ask the court to allow you to request compensation within that time.

You or anyone else eligible to request fees from the conservatorship estate may petition the court for an award of compensation, together or separately, at any time after the initial 90-day period without prior court permission. However, the court may require you as conservator of the estate to file an account and report whenever any eligible person requests fees from the estate because the court prefers to consider fee requests when it can see the current condition of the estate as shown in an up-to-date account and report. For this reason, fee requests are usually made as part of accounts and reports, and the requests of conservators of the person and of the estate and their lawyers are usually combined.

Your petition should request specific amounts to be paid to you and your lawyer and should show the judge how you calculated these amounts by describing in detail the number of hours worked, the hourly rate, and the work that was done. The sample account and report in Appendix D includes a declaration from the lawyer supporting his fee request. It does not include a similar statement from the conservator because he is asking for a nominal amount to handle his mother's affairs. However, if you are going to ask for full compensation for your services, you would prepare (or your lawyer would prepare for you, based on information you provide) a declaration describing your services in detail.

You may not ask for fees for 24-hour-a-day care. If the conservatee lives with you, keep track of the time you actually spend tending to his or her needs and affairs. You may be paid only for these hours.

The judge will review your requests and your lawyer's for fees and will decide what reasonable amounts may be paid from the estate. One of the factors the court considers is the estate's size. Even if the court believes that a request for fees is otherwise reasonable, it may award less than requested because the court believes that the estate is too small to support the requested amount plus all other demands on it.

To support your request for compensation, you will need to keep a good record of the services you provide. Immediately following is an example of such a record, showing the date each service was performed, a description of each service, and the amount of time spent performing each service, stated in tenths of hours.

SAMPLE RECORD OF SERVICE TO CONSERVATEE

2012 SERVICES		
Conservatorship of John Jones Lucy Jones, Conservator		
DATE	DESCRIPTION	DURATION OF SERVICE
4/2/12	Took John to grocery store	0.75
4/3/12	Phone call to attorney's office about accounting	0.2
4/5/12	Reviewed bills, wrote and mailed checks for payment	0.9
4/6/12	Sorted through mail and documents, filed, paid bills	2.5
4/8/12	Inventoried furniture in John's house	6.0
4/10/12	Phoned Social Security re late checks	0.3
4/12/12	Took John shopping at Target	1.75
4/13/12	Prepared for income tax preparation appointment	1.5
4/16/12	Took John to appointment with Dr. Leone	1.8
4/17/12	Met with accountant for income tax preparation	1.5
4/20/12	Phoned John's sister to report his wishes for birthday party	0.3
4/21/12	Picked up completed income tax forms from accountant	0.4
4/23/12	Took John to dentist appointment with Dr. Marshall	1.8
4/24/12	Discussed rental of John's house with property manager	0.7
4/28/12	Cleaned and repaired John's residence in preparation for rental	5.0
4/30/12	Phoned attorney regarding lease signing	0.25
	Total hours:	25.65

B. Making Gifts from the Estate

You may not give gifts of estate money or assets to yourself or anyone else without a judge's prior approval. You need court approval, even if the conservatee asks you to give the gift, and even if he or she has given similar gifts in the past.

C. Reimbursing Yourself for Expenses You Have Paid

You may reimburse yourself for small, reasonable expenses that you've paid for the conservatee with your own money, but it's not a good idea to make this a regular practice. Use your own money only in emergencies or as a cash advance for small amounts, even though it may seem convenient at other times, and make sure that you have records and receipts to prove that you've spent your money on the conservatee's behalf.

D. Borrowing from the Estate

You may not borrow the conservatee's money or loan it to anyone else without prior court approval.

E. Loaning Money to the Estate

You may loan money to the conservatorship estate and pay yourself back, but you need court approval to charge interest. Keep good records showing that you've loaned your own money to the estate.

AVOID THESE SERIOUS MISTAKES

- Never mix your own investments and money with the conservatee's. Even though it may seem convenient at the time to deposit a check made out to the conservatee into your own bank account, it could get you into trouble. The conservatee's assets should be kept in accounts in your name as conservator of the estate, using the conservatee's social security number.
 - Do not manage the conservatorship estate so that you or your family or friends profit from it. For example, if you were to sell the conservatee's car to your son for less than what it was worth without getting a judge's approval, you would be violating your duty as conservator of the estate. Similarly, you may not give your friends the conservatee's furniture or other possessions, nor may you move into the conservatee's home without paying fair rent.
 - Never borrow money from the estate. You must not use estate funds or the estate's credit to get loans or credit for yourself, even if you will inherit the estate when the conservatee dies.
 - Do not give yourself or anyone else a gift from estate funds without getting a judge's approval first.
 - Do not pay yourself or the conservator of the person fees from the estate without a judge's approval first.
 - Do not pay fees with estate funds to your lawyer, to the lawyer for the conservator of the person, or to the lawyer for the conservatee, without getting a judge's approval first.
-

6

DEVELOPING AND REVIEWING YOUR PLAN

Each conservator of the person and each conservator of the estate should make, for his or her conservatorship, a plan that assesses the needs—personal, financial, or both—of the conservatee and shows how these needs will be met on an ongoing basis.

Some superior courts require all conservators to prepare and file formal written plans with the court, although this requirement is not as common as it was because of the introduction of the level of care determination requirement statewide in 2008 and the adoption of Judicial Council form GC-355, Determination of Conservatee's Appropriate Level of Care, in 2011. See chapter 4, section 4.1, part G, concerning the level of care determination. Other courts may require some conservators to file written plans in their particular situations. If you are unsure about the court's requirements in your case concerning a plan for your conservatorship, check with the court or clerk or, if you are represented, your lawyer. **L** However, even if a formal plan is not required in your case, it is recommended that you develop at least an informal plan of conservatorship. That practice may help you perform the required reevaluation of the conservatee's placement and level of care if a material change in circumstances occurs that affects the conservatee's needs for placement and care.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

If the conservator of the person and the conservator of the estate in your conservatorship are different persons, the two of you should get together to develop your plan. The plan should be an overall or general plan in the sense that it provides a complete picture of the conservatee's personal needs and financial ability.

6.1 Developing Your Plan of Conservatorship

A plan of conservatorship, whether or not it is filed with the court, requires you to assess your conservatee's needs in a systematic way and then to develop a plan to meet those needs.

A. Assessing the Conservatee's Needs

By assessing the conservatee's needs, you will be able to figure out what services would be most helpful. Then you can look for people and organizations to provide these services and compare the expense of these services with the conservatee's financial ability. At that point, you can develop an overall plan for the conservatorship.

To assess personal needs, consider what the conservatee is able to do for himself or herself. The "Worksheet for Assessing the Conservatee's Needs," at the end of this chapter, can help you with this task.

In difficult situations, you may want to have a professional help you assess the conservatee's abilities. A private **case manager** or a nonprofit agency that provides **assessment** services in your area may be able to assist you. The social work department of a hospital in the conservatee's community or the local Area Agency on Aging may be able to refer you to agencies and individuals that provide these services. **Regional centers** provide assessment services for people with **developmental disabilities**.

In most situations, you should be able to conduct the personal needs assessment without professional help. Nevertheless, you can ask for help from the conservatee's doctors, nurses, social workers, neighbors, family members, friends, and community agencies in trying to figure out how well the conservatee can carry on daily living activities.

See Appendix B, How to Find and Use Community Resources, for more ideas and information about services to assist with needs assessment and services to meet the needs that you have already determined to exist.

B. Drawing Up a Plan to Meet the Conservatee's Needs

After assessing the conservatee's needs, you will need to prepare your plan for meeting those needs. The idea of a general or overall plan is simple. First, *describe the conservatee's condition*, both personal and financial; how that condition is now; and how it will be in the foreseeable future. Then *describe the steps you plan to take to deal with the conservatee's condition* during the period of time that you expect to be conservator.

Your general plan for conservatorship should include the following elements:

- **Conservatee's personal condition and needs.** Describe the conservatee's overall physical, emotional, and social circumstances. This description should identify needs—that is, physical, emotional, or social problems or deficits that affect the conservatee's daily activities. Include a description of the conservatee's current residence, level of care, and involvement with family and friends. Describe not only the conservatee's current state and daily routine, but also any expected changes—for example, a doctor's prognosis of anticipated improvement or decline in physical health.
- **Conservatee's financial condition and ability.** Describe the conservatee's economic circumstances, including any existing investments and sources of income. Describe any existing procedures for handling income and expenses, and identify any problem areas in maintaining and handling assets and deficits.
- **Plans for conservatorship of the person.** Your plan for managing the conservatee's personal needs should be a detailed description of the type and level of services you propose to provide in order to take care of his or her basic and extraordinary needs. Include your own plans for contact and involvement with the conservatee and your plans to involve others, such as relatives, friends, or community services. Describe any changes you intend to make in the conservatee's existing residence or level of care, not only in the short term, based on current personal conditions, but also in the long term, based on expected changes in those conditions.
- **Plans for conservatorship of the estate.** Your plan for managing the conservatee's estate should describe how you propose to handle the conservatee's assets and anticipated deficits, including proposed changes in investments, sales of assets, and any intended use of investment advisors or other financial experts. Describe the

method or procedure you intend to use to handle income and expenses, and identify the income or sources of funds you intend to use to satisfy the conservatee's basic and extraordinary needs in the short and long terms. Estimate annual income and expenses (including the cost of care and fees for lawyers and conservators).

6.2 Reviewing and Updating Your Plan

It is a good idea to review your plan at least once a year, or whenever there is a significant change in your conservatee's personal life or finances. Such changes may include the following:

- A gradual improvement or decline in physical, mental, or emotional health
- A sudden health change such as a stroke, hip fracture, or diagnosed cancer
- A change in the conservatee's family or household arrangements
- The death or absence of a spouse, child, good friend, or regular caregiver
- A new person or new persons in the conservatee's life
- A reduction in estate assets or income
- The need to move from the conservatee's current residence

Periodic review is extremely useful to make any necessary adjustments to changes such as these, so that you may continue to meet the conservatee's *current* needs and circumstances.

Some courts require conservators of the person to file status reports at the time the conservator of the estate files the account. Status reports are filed with the court, but they are confidential. They are not kept with the documents the public can see in the court's regular file.

A status report is, essentially, an update of the plan developed by the conservator of the person. It describes the conservatee's current living arrangements, current health, general well-being, abilities, and limitations; notes any changes in these factors; and indicates what changes in the conservatee's living arrangements are expected in the near future. You should check with your lawyer concerning your court's requirements for status reports. **L**

WORKSHEET FOR ASSESSING CONSERVATEE'S NEEDS

- | YES | NO | Can the conservatee care for himself or herself? |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee eat without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee safely get in and out of the bathtub or shower alone? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have any other physical problems bathing or taking a shower? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee bathe or shower daily? If not, how frequently does he or she bathe or shower? _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee need help grooming, such as shampooing or combing hair? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee get dressed and undressed without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee get on and off the toilet without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have control over bladder and bowel functions? |

- | YES | NO | How is the conservatee's physical and mental health? |
|--------------------------|--------------------------|--|
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee been examined by a doctor within the last month? Date of last examination: _____ |
| <input type="checkbox"/> | <input type="checkbox"/> | Is the conservatee currently under a doctor's care? |
| <input type="checkbox"/> | <input type="checkbox"/> | Can the conservatee take medicine, in the right doses at the right times, without help? |
| <input type="checkbox"/> | <input type="checkbox"/> | Does the conservatee have trouble sleeping? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee lost his or her appetite? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee lost interest in pleasurable activities? |
| <input type="checkbox"/> | <input type="checkbox"/> | Has the conservatee expressed a wish to die? |

YES NO How is the conservatee’s physical and mental health? (continued)

 Does the conservatee have strong beliefs that aren’t realistic—for example, that someone is trying to harm him or her?

YES NO How is the conservatee’s memory?

 Does the conservatee wander or get lost?

 Does the conservatee know the date and time of day?

 Is the conservatee sometimes confused about where or who he or she is?

 Does the conservatee sometimes fail to recognize people he or she knows well?

 Is the conservatee forgetful—for example, does he or she leave the oven on?

YES NO Can the conservatee manage his or her household?

 Is the conservatee able to fix his or her own meals?

 If so, is the conservatee willing to do so?

 Can the conservatee do the laundry?

YES NO Can the conservatee manage his or her finances?

 Can the conservatee balance a checkbook?

 Does the conservatee make reasonable, sensible decisions that are in his or her best interests—for example, does the conservatee give away valuables to strangers?

YES NO Can the conservatee get around by himself or herself?

 When walking, is the conservatee steady on his or her feet?

 Can the conservatee shop for groceries and other items?

- If so, is transportation available?
- Has the conservatee fallen?
- Does the conservatee fall frequently?
- Can the conservatee get out of bed and into a chair without help?
- Does the conservatee need equipment to get around:
 - A cane?
 - A walker?
 - A wheelchair?

YES NO Does the conservatee have contact with other people?

- Do friends, neighbors, or relatives visit the conservatee frequently?
- Has the conservatee expressed an interest in participating in group activities such as meals, games, and other events at a senior or other day center?

YES NO Is the conservatee in any danger?

- Does the conservatee's home have safety hazards such as broken steps, loose throw rugs, poor lighting, a staircase without rails, or bathrooms without grab bars?
- If the conservatee drives, does he or she drive safely?
- Has the conservatee ever become violent or threatening to himself or herself or to others? If so, how often and under what circumstances? (Attach additional pages if necessary.) _____

- Does the conservatee have hallucinations?

YES NO Is the conservatee in any danger? (continued)

 Is there evidence that anyone is threatening to steal from the conservatee or harm him or her in any way?

WORKSHEET SUMMARY

Conservatee Can Do It Alone	Conservatee Needs Help	Activity
<input type="checkbox"/>	<input type="checkbox"/>	Move around
<input type="checkbox"/>	<input type="checkbox"/>	Bathe
<input type="checkbox"/>	<input type="checkbox"/>	Dress/groom
<input type="checkbox"/>	<input type="checkbox"/>	Use toilet
<input type="checkbox"/>	<input type="checkbox"/>	Change disposable underpants
<input type="checkbox"/>	<input type="checkbox"/>	Take medications
<input type="checkbox"/>	<input type="checkbox"/>	Prepare meals
<input type="checkbox"/>	<input type="checkbox"/>	Shop for groceries
<input type="checkbox"/>	<input type="checkbox"/>	Shop for clothes
<input type="checkbox"/>	<input type="checkbox"/>	Clean the house
<input type="checkbox"/>	<input type="checkbox"/>	Do laundry
<input type="checkbox"/>	<input type="checkbox"/>	Use the phone
<input type="checkbox"/>	<input type="checkbox"/>	Use transportation services
<input type="checkbox"/>	<input type="checkbox"/>	Pay bills/manage money

Conservatee's memory Conservatee's decision-making ability

- Good
- Fair
- Poor

- Good
- Threatens his or her own well-being

Is conservatee combative or does he or she act aggressively?

- No
- Occasionally, but no threat to safety
- Often
- May pose a threat to self or others

Is conservatee confused or disoriented?

- No
- Occasionally or mildly
- Always or severely

7

THE ROLE OF THE PROBATE COURT

Conservatorship cases are assigned to a specialized department of the superior court in each county, called the *probate department* or the **probate court**.

In larger counties, the probate court may consist of one or more separate departments, or courtrooms, that handle only probate cases. These cases include **guardianships** and **decedents' estates** in addition to conservatorships. In smaller counties, the judge in the probate department also hears other kinds of cases.

The probate court has the legal authority to make decisions about the life and property of a conservatee. When a judge appointed you conservator, the court's authority to care for your conservatee was partly delegated to you, under the court's supervision. The court does not grant this authority lightly, and it will review your actions as conservator.

The court is also responsible for resolving disputes that may arise between the conservator and other interested persons, including the conservatee, his or her close relatives, and even his or her close friends. In this role, the court operates more like it does in other areas of the law: as an impartial decision maker. If there is a dispute, the court's procedures for resolving it are similar to the procedures used in a regular civil lawsuit.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

However, although the court is fair, it is not neutral, particularly in disputes between the conservator and the conservatee. Its primary responsibility is to protect the conservatee. It does so by closely supervising the conservator.

7.1 Court Personnel and Their Responsibilities

In each county, a judge or **commissioner** is assigned to handle probate cases. Each probate court has a **court investigator**. In small counties, the judge, assisted by a clerk, may hear probate cases one morning a week. In larger counties, the probate court operates full-time and includes a number of departments and judges, and the judges have staff to help them.

A. Court Probate Attorney and Examiners

The court staff may include experienced probate lawyers who work full time for the court and probate examiners. Examiners usually work under the supervision of a probate lawyer and often have been trained as probate paralegals. Many examiners, particularly in smaller courts, are experienced court clerks. Court-staff probate lawyers or examiners examine papers filed in each conservatorship, including the appointment petition and all papers filed by the conservator, and advise the judge of any problems with them or with the notices of the court hearing given concerning them. They write their advice concerning each matter on a probate department court calendar as information to interested parties, attorneys filing or opposing petitions that are filed with the court, and the public generally. This written advice is commonly referred to as “probate notes.” Many courts post their probate notes online. Others publish them in local legal newspapers.

Persons filing papers with the court in probate matters are expected to access the probate notes for their cases in advance of the court hearings in their matters so they can correct any notice or other defects noted by the probate staff before the hearing date for those matters, in order to avoid unnecessary postponements caused by uncorrected defects. Your lawyer should be familiar with the probate notes system in your court. **L** If you do not have a lawyer, you will be expected to find out how to access the notes for your conservatorship.

Probate department legal staff also keep track of parties’ failures to file required papers in a timely manner and assist the court in compelling compliance with the laws and rules of court applicable to probate matters.

B. Superior Court Clerk

The superior court clerk is usually just called the *clerk*, or the *court clerk*. The clerk's office is responsible for filing and storing all papers sent to the court by the parties to lawsuits and other matters heard in the court, and all orders made by the court's judges. In the larger counties, the clerk's office has a probate division responsible for maintaining the records of matters heard in the probate court.

The clerk keeps records of each court case, including conservatorships. All of the papers filed in a conservatorship are put in its case file and maintained under its file or case number. You must refer to that number and the case's name when you call or write the clerk's office. Any document you file must also contain the file number and the case name. The name of a conservatorship case (in which a conservator of the person and the estate has been appointed) is "Conservatorship of the Person and Estate of [name of conservatee], Conservatee."

Each conservatorship case has both a public and a confidential file. The confidential file contains documents that have personal information about the conservatee, such as the court investigator's report. Your lawyer will tell you which documents are filed in the confidential file. **L**

Throughout this handbook, you are advised to file various **petitions**, reports, and accounts with the court. This means presenting the papers to the clerk's office for placement in the conservatorship file. In most instances, your lawyer will do this for you. **L**

The clerk issues your Letters of Conservatorship and provides certified copies of the Letters when they are requested and the fee for this service is paid (see chapter 1, section 1.3, part B). If you are a conservator of the estate, you must also file any **surety bond** ordered by the court with the court clerk's office (see chapter 5, section 5.1, part B).

Court clerks are not permitted to give legal advice, explain what papers are to be filed, or answer questions about how to handle the conservatorship.

C. Court Investigator

Every superior court has at least one court investigator. He or she serves as the judge's "eyes and ears" in that the investigator is allowed to contact the conservatee or other interested people outside the courtroom. The court investigator is sometimes called the **probate investigator**.

A court investigator will have contacted you before you were appointed. In most cases, a court investigator must personally visit the proposed conservatee before the conservator is appointed. During this visit, the investigator explains the conservatorship, answers questions, sees whether the proposed conservatee has any objections, and recommends whether a lawyer should be appointed to represent the proposed conservatee.

Court supervision. Within six months after your appointment as conservator, at the end of the first year and every two years after that, the court reviews the conservatorship. After the first review, further reviews usually take place at the times the court reviews your accounts and reports (see chapter 5, section 5.9). At that time, a court investigator visits the conservatee, reminds the conservatee that he or she has a conservator, and provides the name of the conservator. The court investigator checks to see whether

- the conservatee wants the conservatorship to end,
- the conservatee should still be in a conservatorship, and
- the conservator is acting in the conservatee's best interests.

A court investigator may contact you or anyone else to find out whether you are acting in the conservatee's best interests, so be prepared to cooperate. The court investigator will assess

- the conservatee's living situation, whether at home or in a care facility;
- how much care and supervision the conservatee needs;
- how well the conservatee's needs are being met; and
- what kinds of resources may be available to assist you.

In most courts, a court investigator will review the conservator's account and report to prepare to discuss the accounting with the conservatee. The investigator may also discuss the accounting with the court staff attorney or examiner. The court staff attorney or investigator may then question the conservator concerning the level of care the conservatee can afford or continue to afford and whether the estate is being properly managed. The staff attorney or manager may also question the conservator about transactions reported in his or her account and report.

Court investigator's report. The court investigator gives the judge a confidential report of the investigation. Copies of the report must be mailed to you and your lawyer. If you have any questions about the report, ask your lawyer, or if your lawyer recommends it, you may contact the court investigator directly. **L**

Other duties of the court investigator. Although a court investigator's time is limited, he or she responds to complaints brought to the investigator's attention about how a conservatorship is being handled. The court investigator will contact the conservatee, the conservator, and others, if necessary, to check into a complaint.

In some instances, the court investigator may recommend that the judge appoint a lawyer for the conservatee. This may happen when the court investigator believes that more investigation is needed, or if the conservatee wants the conservatorship to end or wants the conservator to be replaced.

The court investigator does not investigate crimes but may refer them to the appropriate law enforcement agency.

If you are required to file a plan of conservatorship with the court (see chapter 6), you may be required to give the court investigator a copy, although many investigators simply get these plans from the court file. In some courts, the court investigator may look over legal papers filed with the court before a judge reads them to make sure that they are complete. In most courts, however, that function is performed by probate staff attorneys and examiners.

Cost of court investigations. The cost of court investigations, called an **assessment**, must be paid by the conservator from the conservatee's estate, unless the court waives the assessment because of hardship or grants a waiver of all court fees. If you believe the conservatee can't afford the assessment or should receive a complete court fee waiver, discuss these matters with your lawyer and have him or her apply to the court for a complete fee waiver or a specific waiver of the assessment. **L**

D. Probate Referee

At least one **probate referee** appointed by the State Controller serves each county. The court chooses a probate referee to appraise the value of noncash assets in a conservatorship (see chapter 5, section 5.7). You must give the probate referee an **Inventory and Appraisal** that includes all

noncash assets of the conservatee. The referee figures out what the non-cash assets were worth on the date you were appointed conservator. During the conservatorship, you may need to have the assets appraised by the referee again, most commonly when real estate is sold more than a year after your appointment, or when the conservatee's personal residence was appraised more than six months before the court hearing to confirm the sale.

7.2 Role of the Conservator's Lawyer

Your lawyer plays a key role by advising you over the course of the conservatorship. He or she will help you prepare inventories, accounts, reports, and petitions; file them with the court on your behalf; and attend any required court hearings. Your lawyer should provide you with copies of all papers that he or she files on your behalf and all papers that he or she receives from other persons interested in the conservatorship. **L**

A close working relationship with your lawyer will make your job as conservator much easier. If you have any questions about your conservatorship responsibilities, check with your lawyer, not with court staff.

Chapter 1, section 1.3, part D, has more information about working with your lawyer.

7.3 Appointment of a Lawyer for the Conservatee

Conservatees have the right to be represented by a lawyer. For certain types of matters, the law requires that the court appoint a lawyer for the conservatee if the conservatee requests one. The court may also appoint a lawyer if the court believes the appointment would be helpful or is necessary to protect the interests of the conservatee. The judge will also decide whether the conservatee can afford to pay the lawyer all or any portion of his or her fees and costs approved by the court. If so, the lawyer's approved fees will be paid by the **conservatorship estate**, to the extent the court determines it has the ability to do so. Any portion of this lawyer's fees and costs that the conservatee can't afford to pay are paid by the county.

The lawyer appointed by the court usually prepares and files a written report, which may include his or her recommendations for resolution of the matter before the court but may not, if his or her position is to oppose the establishment of a conservatorship at all or to oppose a particular person proposed for the appointment. Sometimes you may disagree with a position being taken by the conservatee's lawyer. If so, it may be possible to reach a compromise to settle the disagreement. If everyone involved fails to agree to a compromise, a judge will have to decide what is best after a contested hearing or trial. Recommendations by court-appointed counsel for the conservatee are usually given great weight and consideration by the court. But you should understand that the role of appointed counsel is not necessarily to reach an agreement. It is instead to advocate for his or her client in order to get the best possible result for the (proposed) conservatee, based on the evidence and the law applicable to the issue.

8

CHANGING CONSERVATORS OR ENDING THE CONSERVATORSHIP

Your responsibilities as conservator end either when the conservatorship itself ends or when your position as conservator ends. In either case, you must wind things up before a judge will release you from your conservatorship responsibilities.

The conservatorship ends when the conservatee dies or when a judge decides it is no longer needed because the conservatee has regained the ability to handle his or her own affairs. The conservatorship of the estate may end because the estate has run out of money.

A conservator's position may also end for any of the following reasons:

- The conservator has resigned and the court has approved the resignation and appointed a new conservator, usually called a *successor conservator*.
- The court has removed the conservator from office and has appointed a successor.

Legal Terms The first time a legal term is used in a chapter, it appears in **colored boldface** text. These terms are defined in the glossary, Appendix G, at the back of this handbook.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

Unless the conservatee has died or has been restored to full responsibility for his or her own affairs, the conservatorship continues, but under a successor conservator.

See chapter 3, section 3.5, for special rules for ending a **limited conservatorship**.

8.1 Ending a Conservatorship

A conservatorship ends when the conservatee dies or the judge determines that the conservatee has become able to handle his or her own affairs. The conservatorship of the estate may end if it runs out of assets.

A. The Conservatee Becomes Able to Handle His or Her Own Affairs

Someone may have a conservator while he or she recovers from a physical or mental condition that is temporarily disabling. For example, the conservatee may have had a stroke or been in a serious auto accident and become unable to handle his or her personal affairs or finances. After rehabilitation, the conservatee may recover and be able to take care of things again.

Or someone with a **developmental disability** may improve to the point of becoming able to manage his or her affairs. For example, after several years of instruction in independent living and money management, a conservatee with a mental impairment may no longer need someone else to manage his or her personal and financial affairs. A limited conservatorship that was created to help meet these needs may no longer be necessary.

In these cases, the conservatee, the conservator, one of the conservatee's relatives or friends, or some other interested person may ask the court to end the conservatorship. The court may have the **court investigator** evaluate the conservatee's condition to see if the conservatorship should be ended. If the judge ends the conservatorship, you will be released from your duties once you have completed the final responsibilities required by the court. See section 8.3 for more information.

B. The Conservatee Has No More Assets

Sometimes all of the conservatee's assets will be spent for his or her care. Without assets, there may no longer be a need for a conservatorship of the estate. The conservatorship of the person, however, will continue.

If the conservatee's only income is from public benefits, such as **SSI** or social security, it may be possible to end the conservatorship of the estate. Some public benefit laws allow a "named payee" to receive benefits on behalf of the person who is eligible to receive them. Since this named payee doesn't have to be appointed by a judge, a **conservator of the estate** may no longer be necessary.

If you believe that all of the conservatee's assets will be spent at some point, check with your lawyer to find out what should be done. **L**

C. The Conservatee Dies

A conservatorship ends when the conservatee dies. However, a judge will not release you from your duties and officially close the conservatorship until you have taken certain additional actions. Check with your lawyer to find out what is required. **L** Section 8.3 has more information about these final responsibilities.

8.2 Changing Conservators

In some cases, such as when a conservator resigns or dies, the conservator will be replaced and the conservatorship will continue. This may also happen when a judge removes a conservator by court order.

A. The Conservator Resigns

If you become ill or can't continue serving as conservator for some other reason, you may file a **petition** with the court asking it to accept your resignation. Your lawyer will help you make this request. **L** You can only *ask* for permission to resign. Unless the court accepts your resignation, you are still fully responsible as conservator. A request to resign is usually accepted, but it is best to have a suitable alternative for appointment as successor conservator when you petition for permission to resign.

If the court accepts your resignation, the judge may ask you to help find someone else to replace you as conservator. Sometimes the lawyer for the conservatee also helps find a suitable replacement. The replacement could be one of the conservatee's relatives, friends, or business acquaintances or a private professional conservator, nonprofit agency, or local government agency, called a **public guardian**.

A public guardian may be appointed as conservator if there is no suitable relative or friend who is willing to be conservator. Guidelines about which cases the public guardian will handle vary from county to county. In many counties, especially large ones, public guardians have so many cases that they have difficulty giving conservatees the attention and personal contact that a caring friend, relative, or private professional can provide.

If you believe a public guardian should be appointed to replace you as conservator, contact the office of the public guardian in your county. The court investigator can give you the phone number.

After you have resigned, the judge will **discharge** you from your duties once you have completed your final responsibilities. See section 8.3 for more information.

B. The Court Removes the Conservator

The court may remove a conservator who is failing to perform the duties of the office or is incapable of performing them, and then appoint a new conservator. The conservatee or any of his or her relatives or friends may ask the court to remove and replace the conservator. If the conservatee makes the request and doesn't have his or her own lawyer, a judge will appoint one to file a petition for the conservatee asking for **removal** of the conservator. **L**

If you are involuntarily removed, you are still responsible for handing things over to a new conservator. Section 8.3 explains your final responsibilities.

C. The Conservator Dies

If the conservator dies, a relative, friend, or the **executor** of the estate of the deceased conservator should notify the court. A **limited conservatorship** ends when the conservator dies (see chapter 3). In the case of a **general conservatorship**, however, the court appoints a new conservator

as a replacement so that the conservatorship may continue as long as it is needed. But if the conservatorship is no longer needed, the conservatee may ask the court to end it.

In the case of a limited conservatorship, if the conservatee still needs help following the death of his or her conservator, a concerned friend, relative, or agency should file a petition asking the court to appoint a successor conservator.

The person handling the deceased conservator's final affairs must complete the conservator's final duties before the judge will release the decedent's estate from responsibility as conservator. Section 8.3 has more information about these final duties.

8.3 The Conservator's Final Responsibilities

Whether you are a **conservator of the person** or conservator of the estate, you must wind things up before the judge will release you from your responsibilities.

If someone else is taking over, be sure to put all of your files and notes in order and pass them on to the new conservator.

If you are conservator of the person and the conservatee dies, you must sign and file a new form, Notice of the Conservatee's Death (form GC-399), and mail copies to the conservator of the estate (if that is not you), the conservatee's spouse or domestic partner, and anyone who has filed a request with the court to be notified of events in the conservatorship, called a Request for Special Notice. The original of this form that you file with the court must show that you have mailed it to the persons entitled to receive it, a showing that is referred to as a proof of service. The proof of service is on page 2 of the form. Check with your lawyer to see if the court has any special requirements, such as filing the death certificate. **L**

If you are conservator of the estate, whether the conservatorship itself ends or you are being replaced by a new conservator, the court will not release your **bond** or discharge you from your duties until you take care of the following matters:

- Pay any court assessments due for investigation costs.
- Account for all of the assets of the conservatorship estate. If the conservatee has died, you will need to make two separate accountings: the first covering the period up to the date of the conservatee's death,

and the second covering the period after that date.

- Get the court's approval of your final accounting.
- Deliver the assets to and get a **receipt** from the appropriate person—for example, the new conservator or the executor of the conservatee's decedent estate.
- File the receipt with the court.

Once the court officially releases you as conservator of the estate, you are no longer responsible for managing the estate. If you are conservator of the estate, that release is called a *discharge* and follows court approval of your final accounting and distribution of all conservatorship assets to the restored conservatee, personal representative of the conservatee's decedent estate, or successor conservator of the conservatee's estate. You must fill out and file an Ex Parte (meaning "without notice to anyone") Petition for Final Discharge and Order (form DE-295/GC-395). Once you have received back a copy of the filed Petition for Final Discharge signed by the clerk of the court, provide a copy to the surety so that the conservator's bond may be discharged. You are then released as conservator.

APPENDIX A

GUIDE TO MEDICARE, MEDI-CAL, AND OTHER HEALTH INSURANCE

A.1 Medicare

Medicare is a federal health insurance program that has no financial eligibility requirements. Medicare provides health insurance for

- people age 65 and older who are entitled to receive social security retirement benefits,
- people under age 65 who have been receiving social security disability benefits for at least 25 months, and
- people under age 65 with severe kidney disease.

Medicare also covers certain former federal, state, and local government employees and certain former railroad employees. You should contact a local Social Security Administration office to find out whether the conservatee is eligible for coverage.

There are two kinds of Medicare plans: Original Medicare, which is a fee-for-service plan; and Medicare Choice plans, which include both managed care (HMO; health maintenance organization) plans and fee-for-service plans.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

Original Medicare is divided into two parts. Part A (hospital insurance) pays for inpatient hospital services, very limited skilled nursing facility care following hospitalization, some part-time home health services, and hospice care. Part B (medical insurance) covers doctor's services, some outpatient services, home health care, diagnostic tests, and medical equipment. Find out whether the conservatee is getting Part A, Part B, or both by checking the conservatee's Medicare card or by asking the local Social Security Administration office.

CAUTION: This section of Appendix A provides a brief and convenient summary of Original Medicare benefits. For more thorough coverage of the federal rules governing these benefits, as well as coverage that may include recent changes not reflected here, check with your local Social Security office for their current booklet on Medicare benefits.

A. Original Medicare Part A: Inpatient Hospital Services

Original Medicare Part A covers inpatient hospital care, very limited skilled nursing facility care, home health visits, and approved hospice care.

Hospital insurance. Hospital benefits apply to a single benefit period that starts when the patient enters a hospital. A new benefit period starts if the patient goes into a hospital again at least 60 days after being released from a hospital, skilled nursing facility, or rehabilitation facility.

The number of benefit periods a person can have is unlimited. However, within a benefit period, the maximum benefits are 150 days of inpatient hospital care and up to 60 *lifetime reserve* days that can be used only once.

During the first 60 days of hospitalization in each benefit period, Medicare hospital insurance pays for all covered services after the patient has paid a deductible (in 2015, for example, the deductible was \$1,260). For days 61 through 90 of covered care in a benefit period, the patient would pay a higher daily amount (\$315 a day, in 2015) for all covered services. For days 91 through 150 of covered care in a benefit period, the patient's share of covered services would increase (to \$630 a day, in 2015). Beyond lifetime reserve days, the patient pays all costs of the hospitalization.

The average hospital stay for a Medicare recipient is seven days. Therefore, it is highly unlikely that Medicare benefits will be exhausted in any given benefit period.

Skilled nursing facility care. Up to 100 days of skilled nursing facility care are covered by Medicare. The patient must make a copayment of \$157.50 a day after the first 20 days. Medicare covers care in a nursing facility only when the patient is there as a result of the same condition that he or she was hospitalized for. The person must enter the skilled nursing facility within 30 days after a hospital stay of at least three days. If Medicare covers the stay, the average covered period is about two weeks. Medicare pays only for *skilled nursing care* in a nursing facility. It does not pay for what it calls *custodial care*, such as feeding or help with bathing, walking, dressing, or using the toilet.

Home health care. Home health care is covered under Part A when it is medically necessary, the person is homebound, and a doctor has ordered skilled care and rehabilitation under a plan of care regularly monitored by a doctor. It can be covered under Part B if the patient doesn't have Part A coverage. A patient is not eligible for covered home health care if he or she needs more than part-time or intermittent skilled nursing care. There are no deductibles or copayments. The patient must pay 20 percent of the Medicare-approved cost of durable medical equipment used at home. Covered home health care does not include 24-hour-a-day care at home, meals delivered to the home, home care services, and personal care, such as bathing and assistance in the bathroom. A home care agency that coordinates the home care services ordered by the doctor must be Medicare-certified.

Hospice care. Hospice care is provided under Medicare Part A if the eligible patient's treating doctor and a hospice doctor certify that the patient is terminally ill and is expected to live less than six months and the patient accepts palliative care for comfort rather than treatment to cure the illness. There are no deductibles or copayments for this care. However, there is a \$5 copayment for outpatient prescription drugs and a required payment of 5 percent of the Medicare-approved cost of respite care. Hospice care provides treatment to relieve pain and supportive services to maintain the patient at home, in a hospital, or in a hospice.

Paying the bill for Part A services. Hospitals, skilled nursing facilities, and home health agencies use insurance companies such as Blue Shield of California to send bills to Medicare. Different companies are used for different regions.

B. Original Medicare Part B: Medical Insurance

An individual may enroll in Part B of Original Medicare if he or she

- is eligible for hospital insurance under Part A, or
- is a U.S. citizen or a permanent resident age 65 or older lawfully residing in the United States for at least five continuous years.

A person enrolls in Medicare Part B by applying in writing or by showing that he or she is entitled to social security benefits or Part A hospital insurance. Contact a local Social Security Administration office to find out how to apply on the conservatee's behalf.

Find out whether the care the conservatee needs is covered by Medicare Part B. This insurance helps to pay for the following:

- Physician's services, including diagnostic and laboratory tests, and other services performed in a doctor's office, such as x-rays, drugs that can't be self-administered, physical therapy, and speech pathology
- Ambulance services
- Prosthetic devices and artificial limbs
- Medical equipment, such as wheelchairs and hospital beds
- Medical supplies, including surgical dressings and casts
- Home health services that meet certain conditions and that are provided by an agency that participates in the Medicare program
- Drugs needed during the first year after organ transplants, called *immunosuppressive drugs*
- Outpatient services that are provided by hospitals that participate in the Medicare program
- Other services, including some chiropractic and podiatric services

Part B medical insurance doesn't cover nursing home care, most prescription drugs and eyeglasses, dental care, hearing aids, or routine examinations.

Paying the bill for Part B services. Part B claims are processed by private insurance companies that administer Medicare claims.

In general, Original Medicare Part B pays 80 percent of the *reasonable charges* for all covered services, and 50 percent of the reasonable charges for outpatient mental health care, after the patient has paid a deductible each year (\$147 in 2015). There were, in 2015, caps of \$1,940 for charges for physical and speech pathology therapy (combined), and occupational therapy. Patients may apply for relief from these caps. The therapy provider must establish certain facts to support these cap waivers. There were also thresholds of \$3,700 for outpatient therapy in these fields.

People enrolled in Medicare Part B must pay monthly premiums. These premiums usually come out of the recipient's social security check. In 2015, the monthly premium for most beneficiaries was \$104. There are increases in Part B monthly premiums for those with taxable incomes at \$85,000 or above, to a maximum of \$335.70 for taxable incomes of \$214,000 or more.

Payments for Part B services can be made by two methods: assignment and direct payment.

- **Assignment.** Check to see if the conservatee's doctors will accept Medicare assignment. These doctors bill Medicare directly for their services, and Medicare pays them. They also accept Medicare's **allowable charge** as full payment; they may not charge the patient any amount over that charge. Medicare will pay 80 percent, and the patient will be responsible only for the remaining 20 percent. The patient must also pay any deductible and pay for any treatments not covered by Medicare.
- **Direct payments.** When a doctor doesn't accept assignment, the patient pays the doctor or provider directly, and the doctor bills Medicare. Medicare sends the benefit check to the patient, not the doctor. Medicare pays 80 percent of an allowable charge, and the patient is responsible for the remaining 20 percent plus any amount the provider charges above the allowable charge.

Every Social Security office and many senior service centers have lists of Medicare-participating doctors and health providers who will take assignment. You may also access this information online at www.medicare.gov/physiciancompare/search.html and fill in a desired location. You can further limit (by name, specialty, or a patient's medical condition) the

search for medical service providers who accept assignment or expand the search to cover those who do not in that area.


The Social Security Administration publishes *Medicare & You*, which is updated annually as changes in the law occur. This publication is automatically mailed to persons who are enrolled in Medicare. However, if the conservatee's mailing address has changed, you should report the change to the Social Security Administration, which will ensure that the conservatee continues to receive the publication. You should obtain this guide and make sure you also receive each year's updated edition. You may also access Medicare information online directly, at www.medicare.gov.

Because Medicare's regulations change annually, and because *Medicare & You* is available online, this handbook does not provide greater coverage details here. However, we suggest that you become familiar with the service areas of Original Medicare, described in the preceding sections.

CAUTION: There are limits to most Medicare coverage. Even though certain coverage areas are mentioned here, don't assume that the conservatee will automatically be eligible for coverage. Eligibility for certain coverage depends on the type of illness or injury, the number of days of hospital care, the patient's medical needs after discharge from the hospital, and other factors.

Each time you make arrangements for any of the services described here for the conservatee, you should confirm what portion of the cost is expected to be covered by Medicare.

Medicare will likely cover only *part* of the total cost. The patient is responsible for medical costs not covered by Medicare. If the conservatee has supplemental medical insurance, it may cover all or part of the additional cost.

Right to appeal. Any action taken by Medicare regarding Part A or Part B benefits can be appealed. If you believe that Medicare has made an incorrect decision about a claim, you can file an appeal by following the instructions on the back of the determination form sent by Medicare, or you can ask your local Social Security office for help. There may be other resources in your area that provide assistance with Medicare appeals. Also, some lawyers specialize in this field. 

C. Medicare Advantage and Part D Drug Prescription Plans

A recent innovation in Medicare coverage is the availability in many areas of Medicare Advantage plans, under which the government contracts with private medical service providers. Some of the plans are managed care (HMO) plans; others are fee-for-service plans, like Original Medicare. A person must be eligible for and enrolled in Original Medicare Parts A and B to be eligible to enroll in a Medicare Advantage plan. An eligible person may switch from one plan to another or back to Original Medicare, but there are restrictions, so if you are investigating a Medicare Advantage plan for your conservatee, you should be careful.

Part D drug prescription plans are now available for those in Original Medicare and also, if their plans cover them, Medicare Advantage plans. You may search for Part D plans in your area online at www.medicare.gov/part-d/index.html. Each Part D plan has a list, called a *formulary*, of drugs covered under the plan.

The details of Medicare Advantage and Part D prescription drug plans are beyond the scope of this handbook. However, if you want to look into one of them for your conservatee, you can visit the Medicare website at www.medicare.gov/find-a-plan/questions/home.aspx or call 1-800-MEDICARE (1-800-633-4227) for more information. The government publication *Medicare & You* has information on this subject, including comparison charts of the various kinds of plans available.

A.2 Medi-Cal

Medi-Cal (referred to in federal law and in other states as *Medicaid*) is California's version of a combined federal and state program designed to help pay for medical care for people getting public assistance and other low-income people. Although Medi-Cal recipients often also receive Medicare, these programs aren't related. Medicare is run by the Social Security Administration. Medi-Cal is administered by the State of California. Funding for Medi-Cal comes from federal Medicaid funds.

Eligibility. Several categories of individuals are eligible to receive Medi-Cal:

- Supplemental Security Income (SSI) recipients. Low-income people who are 65 or over, and blind or disabled people of any age who are receiving SSI aid payments, are automatically covered by Medi-Cal. It is important to apply for SSI whenever you can, even if the conservatee is eligible for only a small cash benefit, because Medi-Cal coverage comes with SSI.
- Temporary Assistance for Needy Families (TANF; formerly Aid to Families with Dependent Children, or AFDC). People who are receiving benefits under the TANF program are automatically eligible for Medi-Cal.
- Medically needy. People who are 65 or over, or blind or disabled, and who aren't getting SSI may be eligible for Medi-Cal if they have very limited financial resources. If paying medical bills would leave the person with less money than Medi-Cal considers enough to live on, the patient has to pay part of the bills, and Medi-Cal will pay part.
- Nursing home residents. People in nursing homes are eligible if their income and financial resources are within Medi-Cal limits.

Transferring assets to be eligible for Medi-Cal. Under certain circumstances, assets can be spent down or transferred to others until they are down to the Medi-Cal eligibility limit. The conservatee may then become eligible for Medi-Cal.

This is an extremely complex and rapidly changing area of Medi-Cal regulations. You should not transfer assets until you have consulted with your lawyer. **L**

Expenses covered by Medi-Cal. Medi-Cal pays for health care services that it considers to be medically necessary.

Some of these services must be authorized by Medi-Cal in advance. If so, the health care provider makes the request. The patient has the right to receive a copy of Medi-Cal's form denying coverage. Prior approval is not required for emergency care, necessary doctor's visits, or most drugs. You have the right to request a hearing if you believe that the authorization is unreasonably delayed or if it is denied.

Sometimes the patient may have to make a copayment for prescription drugs or for nonemergency treatment that was given in an emergency room.

Claims on a deceased conservatee's estate. The state has the right to place a claim on the estate of a deceased Medi-Cal recipient for Medi-Cal services received after the age of 55 and for long-term care received at any age. The state must waive the claim if payment of the claim would cause the conservatee's dependents, heirs, or survivors substantial hardship.

Medi-Cal providers. It is important to find out before treatment whether the conservatee's doctors and other health care providers accept Medi-Cal. Not all hospitals, nursing homes, and other health care providers accept Medi-Cal. However, *if Medi-Cal is accepted, the provider must accept the Medi-Cal reimbursement as payment in full.* The patient never can be required to pay in advance for services covered by Medi-Cal except for a copayment. In some parts of the state, private health maintenance organizations contract to serve Medi-Cal patients.

Nursing home care. For nursing home care to be covered by Medi-Cal, the patient must have been admitted on a doctor's order, and the stay must be considered by Medi-Cal to be medically necessary. Medi-Cal recipients in nursing homes may keep a personal-needs allowance, and the rest of their income is paid to the nursing home.

A person in a nursing home who is on Medi-Cal and who owns a home continues to be eligible so long as

- the person intends to return home, or
- the person's spouse, domestic partner, or dependents are living in the home.

Anyone, no matter how ill, can intend to return home. The patient's intent to return home should be stated on the application for long-term Medi-Cal care.

Special rules for couples when one spouse enters a nursing home. When one spouse goes into a nursing home, the other spouse doesn't have to use up all of the couple's income and assets before Medi-Cal will help pay for nursing home care. Medi-Cal regulations about such situations can be complicated. Also, they may change periodically. You should consult your lawyer and the local Medi-Cal office for current Medi-Cal regulations and information. **L**

Medi-Cal and Medicare. For people on Medicare, Medi-Cal pays the following:

- The deductible for medical benefits under Part A
- Part B premiums
- The yearly deductible and copayments for medical benefits under Part B

If a person receives both Medi-Cal and Medicare, a doctor may not bill the patient directly and may not make the patient pay the 20 percent copayment that Medicare patients pay.

How to apply for Medi-Cal. It is important to plan ahead so that you know in which month the conservatee will be eligible for Medi-Cal. Consult your lawyer and contact the Medi-Cal office as soon as you believe that this time is approaching, because it takes time to process the application. Once the conservatee's income and assets have been checked and Medi-Cal is approved, the conservatee will be given a Medi-Cal card.

You may request up to three months of retroactive coverage, and if approved, the conservatee will be covered for these retroactive months.

Right to appeal. A person getting Medi-Cal has the right to appeal any decision by the welfare department regarding Medi-Cal eligibility. Contact your local legal services office for assistance with Medi-Cal eligibility and service problems.

A.3 County Health Services

People between the ages of 21 and 65 who aren't blind or disabled and who have no dependent children are not eligible for Medi-Cal (except pregnant women, nursing home residents, and refugees). The county is responsible for providing medical care to people who are sick and unable to pay for medical treatment. Even in these cases, the county may send a bill or request a partial payment for the services. Contact the county health department to find out about services in your county.

A.4 Medicare Supplemental Health Insurance (Medigap)

Medigap is a type of private insurance, not the name of an insurance company or a government program. Medigap insurance is designed to pay the copayments and deductibles required by Medicare. Generally, this type of insurance is available to people 65 and over who have both Medicare Parts A and B. When you evaluate Medigap policies, you should understand that they will *not* cover all of the conservatee's health care expenses that Medicare doesn't pay.

Medigap policies use the language of the Medicare program and base their coverage decisions on Medicare determinations. Therefore, if Medicare won't cover a treatment, it's likely that a Medigap policy won't cover it either. Medigap policies don't pay for custodial nursing home care.

Before buying a policy, review the policy's outline of coverage. You don't have to buy a policy to get an outline of coverage, but you probably won't be able to see the policy itself before you buy it. However, you are legally entitled to a 30-day free-look period. If you decide to cancel the policy within the first 30 days, the insurance company must refund all premiums.

When you are thinking of buying Medigap insurance for the conservatee, follow these guidelines:

- Don't buy more than one Medigap policy.
- Consider a Medicare Advantage plan as well as a Medigap policy.
- See if there is a waiting period before the policy pays for medical conditions that the insured already had before signing up for the policy.
- Take your time. Don't let yourself be pressured into buying. Don't be taken in by misleading advertisements or an insurance agent's misleading statements.
- Know with whom you are dealing. Keep the name and address of the agent or the insurance company.
- Don't pay cash. Make your check or money order payable to the insurance company, not the agent.
- Contact the insurance company if you don't receive the policy or any refund promptly.

- Remember that people who are eligible for Medi-Cal don't need Medigap policies.

A.5 Long-Term Care Insurance

Long-term care insurance is not the same as Medigap insurance. It is a type of insurance that is designed to pay for skilled, intermediate, or custodial nursing home care. It also may offer some home health care benefits.

Most long-term care policies pay a fixed amount for each covered day. Normally, benefits are not designed to increase with inflation, but some policies do give increases.

After hospitalization, many people need custodial care in a facility or at home. Because this care isn't covered by Medicare, to be of any real value a long-term care policy should cover custodial care. Read the policy carefully to make sure that it will cover custodial care, even when Medicare does not. It is a good idea to ask your lawyer to review the policy as well. **L**

Currently, Medicare and all private insurance payments combined pay only a small percentage of nursing home bills. Medi-Cal and patients themselves pick up most of the costs of nursing home care. Therefore, it is important to evaluate this type of insurance carefully to decide whether the benefits justify the premium.

A.6 Other Types of Insurance

There are many types of medical insurance in addition to those discussed above. The following are examples of insurance policies or plans you may encounter.

A. Dread Disease Policies

Dread disease policies are designed to cover the costs of a lengthy hospital stay for a particular disease, usually cancer. These types of policies typically have exclusions, waiting periods, time limits, and a cap on benefits. People often have trouble collecting on these policies. Very few dread disease policies cover nursing home stays or cancer-related illness. They are outlawed in many states, and many consumer groups consider them to be bad buys.

B. Indemnity Policies

Indemnity policies usually pay a specific amount of money for each day the insured is hospitalized. In most cases, the amount is a very small portion of the actual cost. These policies don't pay benefits for illnesses outside a hospital, and the benefits don't go up with inflation.

C. Group Health Insurance

Many people who would otherwise lose their group health insurance coverage because of unemployment, divorce, or the death or retirement of a spouse are able to keep their insurance an additional period of time by paying their own premiums under a program known as COBRA, an acronym for a 1985 Act of Congress. If the conservatee has experienced one of these changes, you should consult your lawyer, as well as the office that administers the group health insurance, to determine whether the conservatee may be able to continue receiving benefits. You will need to review the group policy and the conservatee's particular circumstances very carefully. **L**

D. Health Maintenance Organizations

An HMO is a type of prepaid health care plan that provides specific services to its enrolled members. HMOs have doctors and health care facilities that provide all benefits covered by Medicare.

Usually, HMOs have a special contract with Medicare. Medicare pays the HMO a set amount each month for each Medicare member, and the member pays little or nothing for HMO services. Members of an HMO agree to put away their Medicare card and use only HMO doctors and facilities for all medical care unless it is an emergency. When the patient uses doctors and facilities outside the HMO for nonemergency care, the patient—not Medicare and not the HMO—is responsible for the bill.

A.7 Sources of Assistance

The Health Insurance Counseling and Advocacy Program (HICAP) of the California Department of Aging offers elderly people free advice on health care insurance. See Appendix B, How to Find and Use Community Resources, for information about contacting HICAP.

To complain about an insurance company, contact

California Department of Insurance
Health Claims Bureau
300 South Spring Street, South Tower
Los Angeles, CA 90013
www.insurance.ca.gov

If you have a problem with Blue Shield or a prepaid health plan, contact

California Department of Managed Health Care
980 Ninth Street, Suite 500
Sacramento, CA 95814
1-888-466-2219
www.dmhc.ca.gov

APPENDIX B

HOW TO FIND AND USE COMMUNITY RESOURCES

Ask for the local court supplement. Most superior courts have a local supplement to this handbook. These supplements may have additional information about local court requirements, and many also have important information about local community resources that may be available to assist you or the conservatee. If you did not receive a local supplement when you received this handbook, check with the court clerk to make sure you have all of the local materials you need.

As conservator, you shoulder a great deal of responsibility. There are important decisions to be made on behalf of another human being: the conservatee. But you are not alone: a number of public and private resources can help you with many aspects of your duties. There are organizations that will deliver meals to a conservatee's home, others that will help evaluate health insurance policies for an elderly conservatee, private case managers who can help assess a conservatee's needs, and some non-profit organizations that will arrange job training for a conservatee with a developmental disability.

The trick is finding the service you need. It would be wonderful if we could hand you a list of phone numbers to call in your community or a list of organizations that exist in every town. But we can't. Resources change—new organizations form, others lose government funding, phone numbers change. An agency that exists in 10 California communities may not exist in 20 others.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

To find help, you need to know what resources may exist in your community. For instance, the following may be available:

- Adult day health care programs
- Adult social day care programs
- Case management services
- Counseling
- Courses at schools and colleges
- Day programs for people with developmental disabilities
- Emergency response devices
- Homemaker, home health, and personal-care services
- Legal assistance
- Meal services
- Personal contact programs
- Respite care
- Senior centers
- Transportation services
- Work training programs

See chapter 4, section 4.7, for more information about these services and programs.

To find these services, you need to know the types of organizations and the individuals who can guide you to them. Key sources of referrals include

- the court investigator for your conservatorship case,
- the social work department of your local hospital,
- a regional center for people with developmental disabilities,
- the referral and information phone line for your Area Agency on Aging, and
- your local library's reference section.

Start by asking these organizations and individuals for the names and phone numbers of local resources. Then follow through by calling the suggested resources to find out if and how they can help. One phone call will lead to another until eventually you should be able to locate the service you need.

B.1 Brain-Impaired Adults

The Family Caregiver Alliance (FCA) assists relatives of people who have suffered a brain-impairing illness or injury after age 18. Brain impairment may be the result of AIDS, a stroke, an auto accident, or some other disease or injury.

This project offers a wealth of help to family members who take care of brain-impaired adults in California. FCA organizes support groups, runs workshops and seminars, makes referrals to legal and financial consultants, helps find in-home aides, and more. It runs a small respite care program that may be able to provide someone to temporarily care for the impaired family member.

Most services are free or on a sliding scale based on income. FCA's phone number is 1-800-445-8106. Its address is 785 Market Street, San Francisco, CA 94103. Its website address is www.caregiver.org.

B.2 Care Facility Licensing and Complaints

There are three California government agencies charged with licensing, regulating, and/or overseeing care facilities and their residents.

A. California Department of Social Services, Community Care Licensing Division

Residential care facilities for the elderly, or RCFEs (formerly board-and-care homes) and other nonmedical residential care facilities are licensed by the California Department of Social Services, Community Care Licensing Division (CCLD). Before you choose an RCFE for the conservatee, check with a district office of this department to see if the home is licensed. You may want to look through the licensing reports on a particular facility to see if it has been cited for license violations. To do so, go to www.cclld.ca.gov, choose Find Licensed Care, and follow the prompts.

You may also make complaints about a residential care facility to the Community Care Licensing Division. If you believe that the facility is overcrowded or unsafe, that residents are not being served enough food or are being mistreated, or that residents' personal rights are being violated, you should report these problems to the Centralized Complaint and Information Bureau at 1-844-let-us-no (1-844-538-8766).

To find contact information for the CCLD Adult and Senior Care regional offices throughout the state, visit <http://cclld.ca.gov/res/pdf/ASC.pdf>.

The CCLD also monitors continuing-care retirement communities (CCRCs) through the Continuing Care Branch, or CCB (formerly Continuing Care Contracts Branch), which issues required Certificates of Authority for CCRCs. Before you enter into a contract for a CCRC for the conservatee, check with this office to find out if the community has a Provisional Certificate of Authority or Certificate of Authority. The CCB can also give you information about the community's financial reports. Because a contract with a continuing-care facility is for care in the future, the facility must be financially sound to be able to fulfill its promise of future care.

You can contact the Continuing Care Branch at 1-916-657-2592 or www.calccrc.ca.gov.

B. California Department of Public Health, Licensing and Certification Division

Intermediate care and skilled nursing facilities are licensed by the California Department of Public Health, Licensing and Certification Division. This agency also oversees acute care hospitals and many other health care facilities.

District offices of this agency can tell you whether a facility is licensed, and you can ask to see licensing reports that have been filed on a particular facility. If the facility has been cited for legal violations, it will be mentioned in the licensing report. You can also make complaints about these facilities to this agency.

Call the Licensing and Certification Division in Sacramento at 1-916-552-8700, or toll free at 1-800-236-9747, for specific questions about the licensing and certification program. Questions or complaints about nursing homes or other licensees of the department should be directed to your local district office. A list of these offices is available at www.cdph.ca.gov/certlic/facilities/Pages/LCDistrictOffices.aspx.

C. California Department of Aging, Long-Term Care Ombudsman Program

Sponsored by the California Department of Aging, the Long-Term Care Ombudsman Program is designed to protect residents of board-and-care homes, nursing homes, and other long-term residential care facilities.

Throughout the state, local ombudsmen advocate for the rights of all long-term care facility residents, not just the elderly, and they respond to and investigate complaints of abuse of residents. For a list of local ombudsman programs by county, see www.aging.ca.gov/programs/lcop/contacts/.

You may call the State CRISISline at 1-800-231-4024, 24 hours a day, seven days a week, to make complaints about your conservatee's care in a long-term facility.

B.3 Conservatorship Case Management

Conservatorship case managers offer a wide range of services.

- They help assess the conservatee's needs and develop a plan for meeting those needs.
- They arrange services for the conservatee.
- They help you develop your General Plan of Conservatorship.
- They coordinate the services of the various agencies and individuals helping the conservatee.
- They keep track of the conservatee's status to see if changes are needed in the conservatee's care.
- They can serve as conservators.

There are private case managers, as well as nonprofit agencies, that provide case management services. The Area Agency on Aging may be able to refer you to a case manager, and a regional center can refer you to a case manager for a limited conservatee, or you can ask the social work department of a local hospital for a recommendation. Another way to find a case manager is by asking friends, business associates, or family members for a recommendation.

B.4 Developmentally Disabled Conservatees

Regional centers are nonprofit corporations that have contracts with the California Department of Developmental Services to serve people with developmental disabilities. Regional centers provide some services directly, and they must help you arrange for other services needed by a developmentally disabled conservatee. Services that the regional center must arrange or provide include the following:

- Diagnosis, evaluation, and treatment
- Personal care, day care, and special living arrangements
- Physical and occupational therapy
- Job training and education

- Information about employment opportunities in sheltered settings
- Services to help people with developmental disabilities work in the general community
- Mental health services
- Recreation
- Individual and family counseling
- Protective services
- Information and referral services
- Transportation to and from services
- Respite care
- Advocacy to help people with developmental disabilities get and keep government benefits

If you are the conservator for a person with a developmental disability, call the regional center for your community.

The Department of Developmental Services’ directory of regional centers—which includes the regional center addresses, the names of their executive directors, and their telephone numbers—is available at www.dds.ca.gov/rc/RCList.cfm.

REGIONAL CENTERS			
Regional Centers	Counties Served	Phone	Web Address
Alta California Regional Center	Alpine, Colusa, El Dorado, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo, Yuba	1-916-978-6400	www.altaregional.org
Central Valley Regional Center	Fresno, Kings, Madera, Mariposa, Merced, Tulare	1-559-276-4300	www.cvrc.org
Eastern Los Angeles Regional Center	Los Angeles: Alhambra, East Los Angeles, Northeast, Whittier	1-626-299-4700	www.elarc.org

Regional Centers	Counties Served	Phone	Web Address
Far Northern Regional Center	Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama, Trinity	1-530-222-4791	www.farnorthernrc.org
Frank D. Lanterman Regional Center	Los Angeles: Central, Glendale, Hollywood-Wilshire, Pasadena	1-213-383-1300	www.lanterman.org
Golden Gate Regional Center	Marin, San Francisco, San Mateo	1-415-546-9222	www.ggrc.org
Harbor Regional Center	Los Angeles: Bellflower, Harbor, Long Beach, Torrance	1-310-540-1711	www.harborrc.org
Inland Regional Center	Riverside, San Bernardino	1-909-890-3000	www.inlandrc.org
Kern Regional Center	Kern, Inyo, Mono	1-661-327-8531	www.kernrc.org
North Bay Regional Center	Napa, Solano, Sonoma	1-707-256-1100	www.nbrc.net
North Los Angeles County Regional Center	Los Angeles: San Fernando and Antelope Valleys	1-818-778-1900	www.nlacrc.org
Redwood Coast Regional Center	Del Norte, Humboldt, Mendocino, Lake	1-707-445-0893	www.redwoodcoastrc.org
Regional Center of the East Bay	Alameda, Contra Costa	1-510-618-6100	www.rceb.org
Regional Center of Orange County	Orange	1-714-796-5100	www.rcocdd.com
San Andreas Regional Center	Monterey, San Benito, Santa Clara, Santa Cruz	1-408-374-9960	www.sarc.org
San Diego Regional Center	Imperial, San Diego	1-858-576-2996	www.sdrc.org
San Gabriel/Pomona Regional Center	Los Angeles: El Monte, Glendora, Monrovia, Pomona	1-909-620-7722	www.sgprc.org
South Central Los Angeles Regional Center	Los Angeles: south-central county, Compton, Downey, Paramount, Dominguez Hills, and parts of Carson	1-213-744-7000	www.sclarc.org
Tri-Counties Regional Center	San Luis Obispo, Santa Barbara, Ventura	1-805-962-7881	www.tri-counties.org
Valley Mountain Regional Center	Amador, Calaveras, San Joaquin, Stanislaus, Tuolumne	1-209-473-0951	www.vmmc.net
Westside Regional Center	Los Angeles: Inglewood, Santa Monica–West	1-310-258-4000	www.westsiderc.org

B.5 Elderly Conservatees

The following agencies will help you—or will refer you to others who will help you—care for an elderly person.

A. Area Agencies on Aging

Area Agencies on Aging (AAAs) serve Californians who are 60 years old or older. Each of the 33 AAAs sponsors an information and referral phone service that guides callers to existing resources. Your local AAA is an excellent place to start your search for community resources.

AAAs can refer you to a wide variety of programs: home-delivered meals, dining rooms that serve meals, transportation services, health screening programs, adult day health care programs, adult day care centers, senior centers, Alzheimer’s centers, legal assistance, patient advocates, in-home aides, and more. These resources vary widely from one community to another.

To find the phone number of your local AAA, call the Department of Aging in Sacramento at 1-800-510-2020, or access a listing of telephone numbers by county at www.aging.ca.gov/AboutCDA/Contact_for_Local_Services.aspx.

B. Health Insurance Counseling and Advocacy Program

California’s Health Insurance Counseling and Advocacy Program (HICAP) offers counseling on health insurance for elderly people. HICAP volunteers explain Medicare and Medi-Cal and can help you compare private health insurance plans. HICAP also offers help filling out health insurance claim forms and resolving disputes over health insurance claims and coverage.

To reach your local HICAP, call 1-800-434-0222 or access a list by county at www.aging.ca.gov/ProgramsProviders/AAA/AAA_Listing.aspx.

C. Long-Term Care Ombudsman Program

See section B.2, part D.

B.6 Health Care

The following agencies, organizations, or other resources will help you with health care questions.

A. Health Care Facility Licensing

The Community Care Licensing Division of the California Department of Social Services certifies home health services, dialysis clinics, acute care hospitals, and many other health care facilities, as well as nursing homes.

See section B.2, parts A and B, for more information.

B. Health Insurance Counseling and Advocacy Program

See section B.5, part B, for more information about this California Department of Aging program. It offers health insurance counseling to elderly Californians.

C. Health Information Organizations

Chapter 4, section 4.3, part A, contains a list of health information organizations. Many of these groups have toll-free phone lines and websites that provide information about a particular disease such as Alzheimer's or cancer. These organizations may be able to send you literature about the disease, help you find a local support group, and direct you to appropriate services and resources.

D. Medicare

See Appendix A, Guide to Medicare, Medi-Cal, and Other Health Insurance. To find health care providers who accept Medicare benefits as full payment for their services, go to www.medicare.gov/physiciancompare/search.html.

B.7 Legal Assistance

When you need a lawyer, check with friends, business associates, your tax advisor, or family members for recommendations. Finding a lawyer through a satisfied client is an excellent way to get legal help. Try to find a lawyer experienced in handling conservatorships. One way to do that is to ask the lawyer whether he or she accepts court appointments to represent conservatees. Courts in the larger counties have probate volunteer panels of lawyers for this purpose. Ask the lawyer if he or she is a member of the panel in your county. Being on the panel provides excellent conservatorship experience. Many lawyers who regularly practice in the probate court handling decedents' estates or trust litigation do not necessarily have experience in conservatorship matters.

You can also use a lawyer referral service that has been certified by the State Bar of California. Such services will refer you to a lawyer who specializes in a particular area of law. In most instances, there will be a small fee for a half-hour consultation with the lawyer. If you decide to hire the lawyer beyond that consultation, you will be charged the lawyer's normal fees for additional work, subject to the court's supervision, control, and prior approval, if the fee is going to be paid from the conservatorship estate.

Look in the Yellow Pages under Attorney Referral Services (see next paragraph below). Call only services that advertise that they are certified by the State Bar. When you call, let the service know what kind of legal assistance you need—for example, help with a conservatorship, a real estate matter, or a contract.

For people with extremely low incomes, there are free legal services programs throughout the state. Enter "Attorney Referral Services" in the search field of www.yellowpages.com. Free legal services programs will often handle only certain types of legal problems.

The law governing waivers of court fees for low-income persons has been revised to clarify that the conservatee's (or, in connection with a petition for the appointment of a conservator, the proposed conservatee's) financial condition, not that of the conservator or the petitioner, determines eligibility for a fee waiver in a conservatorship. Court fee waivers now also apply to the assessments for initial and review court investigations and reports, which are usually the most expensive court fees in these matters.

To receive a court fee waiver, you must apply for it. There are Judicial Council forms specifically designed for use for this purpose in conservatorship cases, identified by the prefix "FW-" with the suffix "-GC" surrounding the form number. You should check with your lawyer about the possibility of a court fee waiver in your conservatorship. **L**

Elderly Californians are served by a statewide program of free legal information and advice. The local Area Agency on Aging or a senior center can refer you to the closest senior legal assistance program.

B.8 Social Security

Call the toll-free Social Security Administration phone line to check on the conservatee's eligibility for retirement, SSI, disability, or Medicare benefits. You may also want to contact the Social Security Administration to have the conservatee's benefit checks deposited directly into the conservatorship account, or to have benefit checks made out to the conservator. Social Security Administration staff will answer questions and send you forms and literature, although you must be prepared to spend considerable time on the telephone before getting through to someone who can help you.

The toll-free Social Security Administration phone number is 1-800-772-1213. For instructions on telephoning the agency for specified purposes, go to www.ssa.gov/agency/contact/phone.html.

APPENDIX C

SAMPLE INVENTORY AND APPRAISAL

A conservator of the estate prepares the Inventory and Appraisal described in chapter 5, section 5.7, listing all of the assets owned by the conservatee on the date that the conservator of the estate was appointed. The conservator of the estate, with the assistance of the probate referee, also lists the value of each asset and the total value of all assets on that date.

The sample Inventory and Appraisal in this handbook has four pages:

- A two-page cover sheet
- Attachment 1: Cash Assets
- Attachment 2: Noncash Assets

The conservator must make a detailed list of all of the conservatee's assets as of the date of the conservator's appointment. The assets must be divided into two categories: cash assets and noncash assets. Cash assets include accounts in financial institutions such as banks and credit unions; certificates of deposit; money market funds; cash deposits in brokerage accounts; uncashed checks, drafts, or money orders dated before the date of your appointment payable to the conservatee; refund checks dated after the date of your appointment for taxes, utilities, Medicare, medical insurance, and other health care reimbursements and payments; and currency. Noncash assets are everything else, including real estate, home furnishings, stocks and bonds, automobiles,

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

jewelry, and artwork. If you have any questions concerning the proper appraisal category of any asset, ask your lawyer or check with the probate referee mentioned later in this appendix. **L**

As conservator of the estate, you must list the cash assets in Attachment 1 and the noncash assets in Attachment 2. Then fill in the value of each cash asset in Attachment 1 as of the date of your appointment (the date of the court's order appointing you conservator, not the date your Letters were issued), and the total value of the Attachment 1 assets on line 1 under "Appraisals" on the cover page. If there are noncash assets, you must send the partially completed Inventory and Appraisal to the probate referee assigned by the court when you were appointed so the referee can appraise those assets. If there are no noncash assets, the probate referee will not participate.

Once the probate referee has finished his or her appraisal, he or she will return the original Inventory and Appraisal to you or to your lawyer, with the values of the non-cash assets filled in on Attachment 2, with the total of those values possibly—but not necessarily—filled in by the probate referee, and with the Declaration of Probate Referee on page 2 (the reverse side of the cover sheet) completed and signed. If the probate referee does not fill in the total of those values, you must add the values of the assets appraised by the referee and enter the total at the bottom of Attachment 2.

You or your lawyer must fill in the total of Attachment 2 (and the total of Attachment 1, if you didn't do so before) on the cover page and complete the rest of that page, and both of you must sign it. If you do not have a lawyer, you must sign the cover page twice, including below the "Statement about the Bond" at the bottom of the page, being careful to answer the questions about the bond in that statement. You then file the completed Inventory and Appraisal with the court and pay the probate referee's commission and expense bill shown in his or her declaration. This is a proper expense of administration payable from the conservatee's estate.

The deadline for filing the Inventory and Appraisal is 90 days after your appointment, so start work on this right away. Locating the conservatee's assets is the first step (see chapter 5, section 5.5). The second step is to list the assets on Attachments 1 and 2. The third step is to send the Inventory and Appraisal cover sheet and the attachments to the probate referee.

You need to allow time for the probate referee to complete the appraisal of the noncash assets in Attachment 2 and to return the completed appraisal, signed by him or her, to you or to your lawyer. Allow four to six weeks for this step.

Remember to list and describe assets on Attachment 1 or 2 that the conservatee owned *on the date of your appointment*. However, do not list

- money spent or received after the date of your appointment,
- the conservatee's wages or salary (if the conservatee is working, wages or salary must be paid directly to the conservatee as if the conservatorship did not exist), or
- property the conservatee owns outside of California.

The sample Inventory and Appraisal follows, showing Attachment 1 assets appraised by the conservator and Attachment 2 assets listed but not yet appraised. This is the way the Inventory and Appraisal looks when it is sent to the probate referee for his or her appraisal of the Attachment 2 assets.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address):

Jared Roberts, State Bar #123456
Attorney at Law
16201 Financial Center Drive
Santa Ana, CA 92705

TELEPHONE NO.: (714) 555-3476

FAX NO. (Optional): (714) 555-3477

E-MAIL ADDRESS (Optional): RobertsLaw@xxx.com

ATTORNEY FOR (Name): David Lowry, Conservator

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Orange

STREET ADDRESS: 341 The City Drive

MAILING ADDRESS: 341 The City Drive

CITY AND ZIP CODE: Orange, CA 92868-3209

BRANCH NAME: Lamoreaux Justice Center

ESTATE OF (Name):

JEANNE LOWRY

DECEDENT CONSERVATEE MINOR

INVENTORY AND APPRAISAL

Partial No.:

Corrected

Final

Reappraisal for Sale

Supplemental

Property Tax Certificate

FOR COURT USE ONLY

You fill this line in with the total value of the noncash assets listed in Attachment 2, given by the probate referee or, if he or she does not fill in a total figure, calculated by you by adding the values for those assets given by the referee.

After probate referee's figure is put in, add items 1 and 2, and write total here. Note: You will need this figure to start your Account to the court. See Appendix D.

CASE NUMBER:

A-396254

Date of Death of Decedent or of Appointment of Guardian or Conservator:

March 8, 2012

APPRAISALS

- 1. Total appraisal by representative, guardian, or conservator (Attachment 1): \$
- 2. Total appraisal by referee (Attachment 2): \$

TOTAL: \$

57,844.59

DECLARATION OF REPRESENTATIVE, GUARDIAN, CONSERVATOR, OR SMALL ESTATE CLAIMANT

- 3. Attachments 1 and 2 together with all prior inventories filed contain a true statement of all a portion of the estate that has come to my knowledge or possession, including particularly all money and all just claims the estate has against me. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 1.
- 4. No probate referee is required by order of the court dated (specify):
- 5. **Property tax certificate.** I certify that the requirements of Revenue and Taxation Code section 480
 - a. are not applicable because the decedent owned no real property in California at the time of death.
 - b. have been satisfied by the filing of a change of ownership statement with the county recorder or assessor of each county in California in which the decedent owned property at the time of death.

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

Date:

David Lowry

(TYPE OR PRINT NAME; INCLUDE TITLE IF CORPORATE OFFICER)

Conservator signs after probate referee returns this form.

(SIGNATURE)

STATEMENT ABOUT THE BOND

(Complete in all cases. Must be signed by attorney for fiduciary, or by fiduciary without an attorney.)

- 6. Bond is waived, or the sole fiduciary is a corporate fiduciary or an exempt government agency.
- 7. Bond filed in the amount of: \$ Sufficient Insufficient
- 8. Receipts for: \$ have been filed with the court for deposits in a blocked account at (specify institution and location):

Date:

Jared Roberts

(TYPE OR PRINT NAME)

Conservator's lawyer (or you, if you do not have a lawyer) completes and signs this section.

(SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

ESTATE OF <i>(Name)</i> : JEANNE LOWRY	CASE NUMBER: A-396254
<input type="checkbox"/> DECEDENT <input checked="" type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	

DECLARATION OF PROBATE REFEREE

- 9. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in Attachment 2.
- 10. A true account of my commission and expenses actually and necessarily incurred pursuant to my appointment is:
 - Statutory commission: \$
 - Expenses (*specify*): \$
 - TOTAL:** \$

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

Date:

▶ Probate referee completes and signs this section.

 (TYPE OR PRINT NAME)

 (SIGNATURE OF REFEREE)

INSTRUCTIONS

(See Probate Code sections 2610-2616, 8801, 8804, 8852, 8905, 8960, 8961, and 8963 for additional instructions.)

- 1. See Probate Code section 8850 for items to be included in the inventory.
- 2. If the minor or conservatee is or has been during the guardianship or conservatorship confined in a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services, mail a copy to the director of the appropriate department in Sacramento. (Prob. Code, § 2611.)
- 3. The representative, guardian, conservator, or small estate claimant shall list on Attachment 1 and appraise as of the date of death of the decedent or the date of appointment of the guardian or conservator, at fair market value, moneys, currency, cash items, bank accounts and amounts on deposit with each financial institution (as defined in Probate Code section 40), and the proceeds of life and accident insurance policies and retirement plans payable upon death in lump sum amounts to the estate, except items whose fair market value is, in the opinion of the representative, an amount different from the ostensible value or specified amount.
- 4. The representative, guardian, conservator, or small estate claimant shall list in Attachment 2 all other assets of the estate which shall be appraised by the referee.
- 5. If joint tenancy and other assets are listed for appraisal purposes only and not as part of the probate estate, they must be separately listed on additional attachments and their value excluded from the total valuation of Attachments 1 and 2.
- 6. Each attachment should conform to the format approved by the Judicial Council. (*See Inventory and Appraisal Attachment* (form DE-161/GC-041) and Cal. Rules of Court, rules 2.100—2.119.)

ESTATE OF (name):
JEANNE LOWRY

CASE NUMBER:
A-396254

**INVENTORY AND APPRAISAL
ATTACHMENT NO.: 1**

(In decedents' estates, attachments must conform to Probate Code section 8850(c) regarding community and separate property.)

Page: 1 of 1 total pages.
(Add pages as required.)

Item No.	Description	Appraised value
1.	Cash found at 121 View Place, Newport Beach, California, conservatee's residence	\$ 250.00
2.	Balance in checking account No. 14655, Southern California Savings and Loan, 34900 Irvine Grove Blvd., Newport Beach, California 92660	7,842.38
3.	Balance in savings account No. 14654, Southern California Savings and Loan, 34900 Irvine Grove Blvd., Newport Beach, California 92660	38,347.04
4.	Certificate of Deposit No. 1765432, Hometown Federal Bank, 900 Washington Blvd., Los Angeles, CA 90083, in the name of Jeanne Lowry and Marshall Lowry (deceased) as joint tenants	10,000.00
5.	Uncashed check from East Coast Teacher's Pension Fund dated March 1, 2012, payable to conservatee	554.47
6.	Uncashed check from Social Security Administration dated March 1, 2012, payable to conservatee	498.00
7.	Uncashed dividend check from Safeguard Investment Mutual Fund, dated March 2, 2012, payable to conservatee	352.70

The conservator of the estate lists all cash assets and writes down their values.

The conservator totals the values of the Attachment 1 cash assets. On the last page of the attachment, the conservator enters "TOTAL CASH ASSETS" in the final Description fillable field and places the total in the final Appraised value fillable field.

TOTAL CASH ASSETS

57,844.59

ESTATE OF (name): JEANNE LOWRY	CASE NUMBER: A-396254
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**INVENTORY AND APPRAISAL
ATTACHMENT NO.: 2**

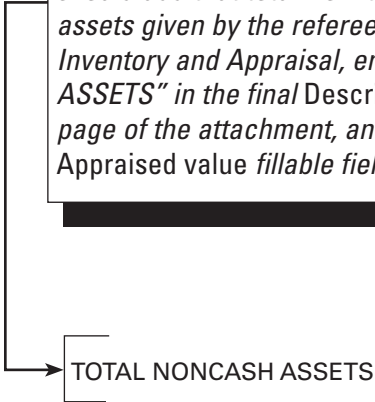
(In decedents' estates, attachments must conform to Probate Code section 8850(c) regarding community and separate property.)

Page: 1 of 1 total pages.
(Add pages as required.)

Item No.	Description	Appraised value
1.	Real property in the City of Newport Beach, County of Orange, State of California, described as Lot 36 in Block 420 of Tract 91, as per map recorded in Book 2 of Parcel Maps, page 42, in the office of the County Recorder of said county. This property is commonly known as 121 View Place Newport Beach, California (improved with single family dwelling). Assessor's Parcel No. 3.	\$
2.	Vacation home. Real property in the City of Palm Springs, County of Riverside, State of California, described as Lot 3 in Block 102 of Subdivision 82, as per map recorded in Book 43 of Maps, page 29, in the office of the County Recorder of said county. This property is commonly known as 2446 W. Sunburst, Palm Springs, California. Assessor's Parcel No. 18.3.	
3.	Household furniture and furnishings at 121 View Place, Newport Beach.	
4.	1425 shares Safeguard Investment Mutual Fund.	
5.	Seven \$100 U.S. Savings Bonds, Series EE, issued May 2, 1955.	
6.	Diamond wedding ring (2 carat).	

The conservator of the estate writes a detailed description of all noncash assets. The probate referee fills in appraised values.

The referee may total the values of the Attachment 2 noncash assets and place the total on the last page of the attachment. If he or she does not, the conservator should add that total from the values of the individual assets given by the referee after the referee returns the Inventory and Appraisal, enter "TOTAL NONCASH ASSETS" in the final Description fillable field of the last page of the attachment, and place the total in the final Appraised value fillable field, shown here as a grey box.



APPENDIX D

SAMPLE

ACCOUNT AND REPORT

Conservators of the estate must file an account of the conservatorship estate one year after appointment and at least once every two years after that. The account includes a written report to the probate court explaining what the conservator of the estate has done to manage the estate and—particularly if he or she is requesting compensation—what the conservator of the person has done to care for the conservatee. The report should also describe the conservatee’s current circumstances.

The report is accompanied by accounting schedules that show what the conservator has done and the current condition of the estate in dollar figures. The report also asks the judge to approve the conservator’s actions in managing the estate and in caring for the conservatee and to approve any other requests the conservator makes, such as for orders approving compensation for the conservator and for his or her lawyer. For this reason, the report is sometimes called a *petition*, or a *petition and report*.

If you have a lawyer, he or she will prepare the petition and report, based on information you provide. **L** Your lawyer may also prepare the accounting schedules, based on the records you have kept during the time period covered by the account. Sometimes the conservator of the estate will prepare the accounting schedules for attachment to the petition and report prepared by his or her lawyer. You and your lawyer should work out well ahead of time which one of you is going to be responsible for each portion of the petition, account, and report. **L**

Legal Advice The symbol **L** notes a situation that may require your lawyer’s advice or assistance.

The sample account in this handbook is of the same estate that is described in the sample Inventory and Appraisal in Appendix C. It has two parts:

1. A written petition and report, with a request for conservator's and attorney's fees, and including a summary of the account.
2. The following schedules of the accounting:
 - Summary of Account
 - Schedule A, Receipts
 - Schedule B, Gains on Sales
 - Schedule C, Disbursements
 - Schedule D, Losses on Sales
 - Schedule E, Cash and Non-Cash Assets on Hand

The account and report must be typewritten or prepared on a computer. You'll be glad you've kept good records throughout the year when it comes time to prepare the accounting!

See chapter 5, sections 5.8, part C, and 5.9, for help on setting up and keeping good records, and for a more detailed discussion of your account and report. Section 8 of that chapter refers to Judicial Council form accounting schedules for use in standard and simplified accounts. A standard account is one in which the disbursements (expenditures) and receipts (income) are shown in subject-matter categories. A simplified account shows these items chronologically.

A conservator may always choose to file a standard account, and sometimes must do so, depending on the size, complexity, and type of assets included in the conservatorship estate. Consult with your lawyer about the type of account you must or should prepare. **L**

The sample account that follows is prepared as a standard account and uses Judicial Council forms for the Summary of Account and Schedules A through E.

1 JARED ROBERTS, State Bar No. 123456
Attorney at Law
2 16201 Financial Center Drive
Santa Ana, CA 92705
3 (714) 555-3476, (714) 555-3477 (Fax)
RobertsLaw@xxx.com
4 Attorney for DAVID LOWRY, Conservator
5
6
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE
9

10
11 Conservatorship of the) Case No.: A-396254
12 Person and Estate of:) FIRST ACCOUNT CURRENT AND REPORT OF
13 JEANNE LOWRY,) CONSERVATOR AND PETITION FOR ITS
also known as) SETTLEMENT, FOR APPROVAL OF SALE OF
14 JEANNE GRAY,) DEPRECIATING PROPERTY, AND FOR ALLOWANCE
15 Conservatee) OF CONSERVATOR'S AND ATTORNEY'S
16) COMPENSATION.
17) Date of Hearing: May 16, 2013
Time: 9:30 a.m.
Department: 22
18)
19)
20)
21)
22)
23)
24)
25)
26)
27)
28)
_____)
Judicial Officer: Hon. Michael R. Jones

19 Petitioner, David Lowry (hereinafter conservator), as conservator of the estate of Jeanne Lowry, con-
20 servatee, presents for settlement and allowance his verified first account current and report of the
21 estate and his acts as conservator. Petitioner respectfully states:

- 22 1. APPOINTMENT. Petitioner was appointed conservator of the person and estate of Jeanne Lowry,
23 also known as Jeanne Gray, the conservatee, on March 8, 2012, and Letters of Conservatorship were
24 issued on March 14, 2012. At all times since his appointment, David Lowry has been acting as the
25 conservator.
26 2. INVENTORY AND APPRAISAL. An Inventory and Appraisal of the estate was duly returned and
27 filed herein on May 25, 2012, showing the value of the estate to be \$1,342,258.59.
28 /

FIRST ACCOUNT CURRENT OF CONSERVATOR

1 3. PERIOD OF ACCOUNT. This account and report covers the period from March 8, 2012, to March
2 7, 2013, both dates inclusive.

3 4. CHARGES AND CREDITS. The conservator is chargeable and is entitled to the credits, respective-
4 ly, as set forth in the Summary of Account, whose supporting schedules are attached following the
5 Summary, and incorporated in this petition by reference.

6 *This account uses the Judicial Council form Summary of Account, immediately preceding the schedules of*
7 *the accounts following this report. If that form is not used, a shortened version of the summary of account*
8 *could be placed here.*

9
10 5. AUTHORIZED INVESTMENTS. During the period of this account, all cash of this conservatorship
11 estate has been invested and maintained in interest bearing accounts or in investments authorized by
12 law, except for an amount reasonably necessary for the orderly administration of the estate.

13 6. STATEMENT OF LIABILITIES. Incorporated in this petition by reference is a statement of all lia-
14 bilities of the estate that are a lien on estate assets. There are no taxes due but unpaid, and no outstand-
15 ing judgments for which the estate is liable.

16 7. SALE OF AUTOMOBILE. Conservator sold the conservatee's automobile, Inventory and Appraisal,
17 Attachment 2, Item 7, for a loss on sale, as specified on the attached Schedule D. Conservator requests
18 confirmation and approval of the sale as a sale of depreciating property.

19 8. SALE OF FURNITURE AND FURNISHINGS. Conservator sold the furniture and furnishings in
20 the conservatee's Newport Beach home, Inventory and Appraisal, Attachment 2, Item 3. This sale was
21 made necessary because the home was rented to a family with their own furniture and furnishings, so
22 the conservatee's furniture and furnishings would have had to be stored at the estate's expense if they
23 had not been sold. As the investigator's report of February 27, 2012, and the Determination of
24 Conservatee's Appropriate Level of Care filed in this matter on May 7, 2012, indicate, the conservatee
25 will never be able to return home and will never have further use for the items sold. The sale was con-
26 ducted on a consignment basis by a professional used furniture dealer in a manner similar to a yard or
27 garage sale. The items sold were not considered numerous or valuable enough for an auction. The prop-
28 erty was sold for its appraised value, \$2,500.00, less the dealer's charge of 20 percent of the amount

1 realized. Conservator requests confirmation and approval of this sale as the sale of depreciable personal
2 al property, or as the sale of personal property under \$5,000.00 in value (Prob. Code, § 2545).

3 Conservator alleges that the conservatee does not have legal capacity to consent to the sale for the rea-
4 sons stated in the investigator's report dated February 27, 2012.

5 9. SALE OF REAL PROPERTY. Conservator sold the conservatee's vacation home in Palm Springs,
6 California, for a gain on sale as specified in the attached Schedule B. The order of this court confirm-
7 ing the sale was filed on November 7, 2012.

8 10. ADDITIONAL BOND. At the time the sale of the conservatee's vacation home was confirmed,
9 conservator applied for and the court filed an order increasing the amount of the bond. The property
10 was sold for all cash to the estate, and there was an encumbrance in the amount of \$50,500.00 against
11 it. The net sum of cash received by conservator, after deducting from the gross sale price all costs of
12 sale charged to seller in the sale escrow and the encumbrance paid off in the escrow, was \$183,418.50.
13 An order increasing the bond by the amount of \$184,000 was filed on November 7, 2012. The addition-
14 al bond was filed on November 9, 2012. Conservator believes the total amount of the bonds filed in
15 this proceeding is sufficient.

16 *After appointment, the conservator of the estate must file a bond in an amount based on the estimated value*
17 *of the conservatee's personal property and the conservatee's estimated annual income from all of his or her*
18 *property and from certain public benefits. The estimate is made in the petition for appointment of conservator,*
19 *the first document filed with the court at the beginning of the conservatorship. It is often made before the*
20 *petitioner (the person requesting appointment of a conservator) has enough information to make an accurate*
21 *estimate. If the initial estimate turns out to be too low, or if real property is changed to personal property,*
22 *such as when it is sold for cash, the amount of bond required by the law may become greater than the*
23 *amount of the original bond. In that case, the conservator must apply to the court for an order increasing the*
24 *amount of the bond to equal the required amount and then must obtain and file the increased bond. You*
25 *should consult with your lawyer when any question about your bond arises, and both of you must pay close*
26 *attention at all times to the value and kind of assets in the estate, the amount of bond you have on file, and*
27 *the amount of bond required by the law. L*

28 *You may also apply to the court for an order reducing your bond if the size of the estate falls below the*
amount of required bond. Annual bond premiums are expensive. It's better to have too much bond rather than
too little, but it is a good idea not to carry and pay for a lot more bond than you need. L

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1 11. NO AFFILIATE RELATIONSHIPS. During the period of this account, conservator has not hired
2 any agent who has a family or affiliate relationship with conservator.

3 *You must disclose the family or affiliate relationship between you and anyone you hire to help you or the con-*
4 *servatee. It is a good idea, although not required, to state that you have not hired any related or affiliated per-*
5 *sons if that is true.*

6 *An "affiliate" is a person or business entity that directly or indirectly controls or is controlled by a conserva-*
7 *tor, or is under common control with a conservator that is itself a business entity. A nonprofessional individu-*
8 *al conservator would usually be concerned only about family relationships.*

9 *You may hire and pay a family member, but you must fully disclose the relationship to the court. If you do*
10 *employ a family member, make sure that the cost of the employment is no greater than if you had employed a*
11 *nonrelative, that the person is fully qualified and capable of performing the services, and that you are able to*
12 *exercise proper supervision.*

13 12. CONSERVATOR'S COMPENSATION. Conservator has spent over one hundred and fifty (150)
14 hours providing services to the conservatee, who is his mother. Conservator has visited the care facility
15 where the conservatee lives at least once a week and made sure that she is receiving proper care and
16 that all her personal needs are met. Conservator has marshaled all conservatorship assets, paid all bills
17 promptly, and managed the estate frugally. Conservator arranged for the sale of the conservatee's auto-
18 mobile, which she can no longer drive, listed for sale and sold the conservatee's Palm Springs vacation
19 home to raise money for her care, and rented out the conservatee's Newport Beach home for a monthly
20 rental greater than the cost of maintaining the property. Conservator has received no compensation for
21 his services. Conservator requests he be awarded \$500.00, which is a reasonable and nominal sum, to
22 compensate him for the time he missed work to attend court hearings.

23 13. ATTORNEY'S COMPENSATION. Conservator retained the services of Jared Roberts, Attorney at
24 Law, to advise him in all matters concerning the conservatorship in which it was necessary to have
25 advice of counsel in the proper administration and conduct of the conservatorship. No payments have
26 been made to the attorney for services rendered to the conservator and estate. Mr. Roberts' declaration
27 describing his services and requested compensation is attached as Exhibit A and incorporated by refer-
28 ence. Petitioner requests the court allow his attorney the sum of \$3,500.00 as reasonable compensation
for services rendered.

FIRST ACCOUNT CURRENT OF CONSERVATOR

1 *Exhibit A would be prepared by your lawyer. L It follows the accounting schedules in this sample. If you*
2 *request compensation for your services as conservator in an amount more than the nominal sum requested*
3 *in this sample petition, you would be required to describe your services in detail in the body of your petition*
4 *or in your own declaration attached to your account.*

5 14. VETERANS' BENEFITS. The conservatee is not receiving money from or through the
6 Department of Veterans Affairs. The conservatee does not receive revenue or profit from money
7 obtained from the Veterans Administration or from property wholly or in part acquired with money
8 from the Department of Veterans Affairs. The conservatorship estate does not include property
9 acquired, wholly or in part, from money from the Department of Veterans Affairs.

10 15. STATE HOSPITAL. During this conservatorship the conservatee has not been a patient in or on
11 leave of absence from a state hospital under the jurisdiction of the State Department of State Hospitals
12 or the State Department of Developmental Services.

13 *The statements in Paragraphs 14 and 15 show that the conservator does not have to give notice of the hear-*
14 *ing on his account to the VA or to the California state departments of mental health or developmental services.*
15 *If your conservatee is or was a state hospital inpatient during the period of your account, you would only*
16 *have to give notice of the hearing to the appropriate state department. You would not have to mention the*
17 *conservatee's inpatient status in your report if you don't want to put that information in the public record.*

18 16. CONSERVATEE'S ADDRESS. The conservatee is now living at Best Care Convalescent Hospital
19 located at 17000 Maple Street, Tustin, California.

20 *The conservatee's address is not required in the report as long as the court investigator has the current infor-*
21 *mation. Whenever there is a change in the conservatee's address or telephone number, you must file a*
22 *Judicial Council form advising the court of the change.*

23 *Some courts also have their own forms calling for the conservatee's and the conservator's current addresses*
24 *and telephone numbers, and for other information as well. The court may require that its form be filed with*
25 *every accounting, whether or not there has been any change in the information provided. You or your lawyer*
26 *should check with your court for its requirements for information to be included in or provided with your*
27 *account. L*

28 /

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1 17. ACCOUNT STATEMENTS. Submitted to the court with, but not attached to, this account and
2 report, are original account statements from financial institutions showing the balance of all accounts
3 where money of the estate is or was deposited, for the period immediately preceding the date of the
4 conservator's appointment, and for the period including the ending date of this accounting.

5 *The original bank statements are delivered to the court, but they are not filed and do not become part of the*
6 *public record.*

7 *If the total amount of cash collected from the conservatee's bank accounts shown in the Inventory and*
8 *Appraisal doesn't match the amount shown in the bank statements for those accounts for the period just*
9 *before the date of the conservator's appointment, or if the amount of cash shown on hand in the accounting*
10 *doesn't match the amounts shown on the bank statements for the conservator's bank accounts for the period*
11 *including the ending date of the accounting, an explanation must be given. This would be done in a separate*
12 *schedule in the accounting, not shown in the sample. The usual explanation for these differences is the*
13 *effect of outstanding checks or deposits shown in the accounting but not yet shown in the bank statements.*
14 *If there are stockbrokerage accounts or accounts at other kinds of institutions, their statements must also be*
15 *delivered to the court.*

16 *When a conservator's name is added to an existing account, or when a new account is opened showing the*
17 *conservatorship, the financial or other institution maintaining the account must directly advise the court of*
18 *these facts and must give the court the balance or value of the account when changed or opened.*

19 18. CAPITAL CHANGES. During the period of this account there have been no changes in the form
20 of non-cash assets of the estate, other than the sales of real and personal property disclosed above and
21 apparent from the attached schedules.

22 *There must be a statement in the report, or in a separate schedule filed as part of the account, showing*
23 *changes in the conservatee's assets held by the conservator from those identified in the Inventory and*
24 *Appraisal or shown as assets on hand in a prior account. Included in this statement would be transactions*
25 *such as purchases of new stocks or bonds or other investments by the conservator during the period of the*
26 *account, stock dividends and stock splits, and stock purchases from automatic cash dividend reinvestment*
27 *programs. Changes in the form of holding cash assets, such as movements of cash between checking and*
28 *savings accounts, do not have to be shown. Sales of estate assets for cash are changes in assets, but they*
are usually separately stated, as they have been in this sample. This paragraph is not required if there have
been no reportable changes in assets, but if that is true, it is a good idea to say so.

27 /
28 /

1 19. STATEMENT OF ESTATE LIABILITIES. The conservatorship estate is indebted to Downey
2 Savings Bank on a promissory note secured by first trust deed on the estate's real property in Newport
3 Beach, California (Inventory and Appraisal, Attachment 2, Item No. 1). The balance due on the note as
4 of March 7, 2013, is \$124,885.00. The note calls for monthly payments of \$1,200.00, bears interest at
5 the rate of 5.25% per annum, is fully amortized with no balloon payment, and is current.

6 20. SPECIAL NOTICE. There is no request for special notice on file.

7
8 *People interested in the conservatorship may file with the court and serve on the conservator a request that*
9 *they be given advance written notice of hearing dates for significant matters filed in the proceeding, includ-*
10 *ing accounts filed by the conservator. If you have a lawyer, he or she will receive any of these requests for*
11 *special notice. **L** The statement in this paragraph should be made if no requests have been made.*

12 *If there have been requests for special notice, prior written notice of the hearing on the account and report,*
13 *and a copy of it, must be sent to each person who made the request. The court keeps a list of those persons.*
14 *If they are not given timely notice of the hearing or a copy of the account and report, the court can't approve*
15 *the account. The hearing is instead postponed so proper notice can be given. Generally, the people eligible to*
16 *request special notice are those who have the right to object to the account and report. If objections are filed*
17 *by a person who has that right, the hearing on the account proceeds as a contested lawsuit, often many*
18 *months after the originally scheduled hearing date.*

19 WHEREFORE, conservator prays:

- 20 1. That this account and report be approved and settled;
- 21 2. That the acts of the conservator shown in the account and report be approved;
- 22 3. That the sale of the conservatee's automobile be approved and confirmed as a sale of a depreciating
23 asset;
- 24 4. That the sale of the conservatee's furniture and furnishings be approved and confirmed as a sale of
25 a depreciating asset or the sale of personal property valued at less than \$5,000.00 during a calendar
26 year;
- 27 5. That, upon the settlement of this account, conservator be authorized and directed to pay himself the
28 sum of \$500.00 as compensation for his services rendered during the period of this account;
6. That, upon the settlement of this account, the conservator be authorized and directed to pay to his
attorney, Jared Roberts, Esq., the sum of \$3,500.00 as compensation for services rendered and, as yet,
unpaid; and

FIRST ACCOUNT CURRENT OF CONSERVATOR

1 7. That the court grant such other and further relief as it deems just and proper.

2
3 DATE: April 19, 2013

4
5 _____
6 DAVID LOWRY, Conservator

7
8 _____
9 JARED ROBERTS, Esq.
10 Attorney for Conservator

1 VERIFICATION

2
3 I, the undersigned, state:

4 I am the conservator of the person and estate of the above- named conservatee. The account,
5 which includes the report and all supporting schedules, is true of my own knowledge, except as the
6 matters that are stated in it on my information and belief, and as to these matters I believe them to be
7 true. The account contains a full statement of all charges against me and of all credits to which I am
8 entitled in the estate during the period of this accounting.

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

11
12 DATE: April 19, 2013

13 _____
14 DAVID LOWRY, Conservator

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FIRST ACCOUNT CURRENT OF CONSERVATOR

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

SUMMARY OF ACCOUNT—STANDARD AND SIMPLIFIED ACCOUNTS

First (Check if final.) and Final Account (Check if interim.) Account Current

Account number ("First," etc.)

March 8, 2012

through March 7, 2013

Opening date of account

Closing date of account

C H A R G E S*

	Property on Hand at Beginning of Account Period, consisting of:		
1a	Cash Assets	\$	57,844.59
1b	Non-Cash Assets (carry value)		1,284,414.00
1c	Total Property on Hand at Beginning of Account Period (add 1a and 1b)		\$ 1,342,258.59
2	Additional Property Received During Period of Account	— Schedule	0.00
3	Receipts During Period of Account	— Schedule A	43,181.98
4	Gains on Sales During Period of Account	— Schedule B	19,100.00
5	Other Charges (describe):	— Schedule	0.00
6	Net Income From Trade or Business During Period of Account	— Schedule	0.00
7	TOTAL CHARGES (add 1c, 2, 3, 4, 5, and 6)		\$ 1,404,540.57

C R E D I T S*

8	Disbursements During Period of Account	— Schedule C	\$ 131,571.04
9	Losses on Sales During Period of Account	— Schedule D	125.00
10	Distributions to Conservatee or Ward	— Schedule	0.00
11	Other Credits (describe):	— Schedule	0.00
12	Net Loss From Trade or Business During Period of Account	— Schedule	0.00
	Property on Hand at End of Account Period — Schedule E, consisting of:		
13a	Cash Assets	\$	224,955.53
13b	Non-Cash Assets (carry value)		1,047,889.00
13c	Total Property on Hand at End of Account Period (add 13a and 13b)		1,272,844.53
14	TOTAL CREDITS (add 8, 9, 10, 11, 12, and 13c)		\$ 1,404,540.57

* (Enter "0" for all categories of charges or credits for which you have no entries. Do not include schedules for these categories, but do not relabel or redesignate the schedules that are included.)

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule A, Receipts, Dividends—Standard Account****Noncapital items**

(Note returns of principal with the items listed below, but do not include their dollar amounts in the amounts or the total. Report returns of principal on Schedule A1, Return of Principal (there is no form for that schedule), add their dollar amounts to cash assets on hand, and subtract their dollar amounts from the carry values of the securities involved.)

Dividends

Date of Receipt (mm/dd/yyyy)	Description* * (Report dividends from each security separately.)	Amounts
	Safeguard Investment - Cash Dividends	\$
04/1/12		352.70
05/1/12		352.70
06/1/12		352.70
07/1/12		352.70
08/1/12		352.70
09/1/12		352.70
10/1/12		352.70
11/1/12		352.70
12/1/12		352.70
01/1/13		352.70
02/1/13		352.70
03/1/13		352.70
<input checked="" type="checkbox"/> Subtotal, Dividends:		\$ 4,232.40

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule A.)

Page A 1 of 6 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <div style="text-align: right; margin-top: 10px;"> <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor </div>	CASE NUMBER: <p style="text-align: center; font-size: 1.2em;">A-396254</p>
--	---

Schedule A, Receipts, Interest—Standard Account

Interest

Date of Receipt <i>(mm/dd/yyyy)</i>	Description * <i>*(Report interest from each account or security separately.)</i>	Amounts
03/24/12 06/23/12 09/22/12 12/22/12	Southern California Savings and Loan Account No. 146541	\$ 776.95 785.58 794.21 794.21
<input checked="" type="checkbox"/> Subtotal, Interest:		\$ <u>3,150.95</u>

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule A.)

Page A 2 of 6 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule A, Receipts, Pensions, Annuities, and Other Regular Periodic Payments—Standard Account*

** (Report veterans' pensions on form GC-400(A)(5), Schedule A, Receipts, Social Security, Veterans' Benefits, Other Public Benefits.)*

Pensions, annuities, and other regular periodic payments

Date of Receipt <i>(mm/dd/yyyy)</i>	Description* <i>* (Report receipts from each source separately.)</i>	Amounts
	East Coast Teachers-Pension	\$
04/1/12		721.87
05/1/12		554.47
06/1/12		554.47
07/1/12		721.87
08/1/12		554.47
09/1/12		554.47
10/1/12		721.87
11/1/12		554.47
12/1/12		554.47
01/1/13		721.87
02/1/13		582.00
03/1/13		582.00
<input checked="" type="checkbox"/> Subtotal, Pensions, Annuities, Other Regular or Periodic Payments:		\$ <u>7,378.30</u>

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule A.)

Page A 3 of 6 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <div style="text-align: right; margin-top: 10px;"> <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor </div>	CASE NUMBER: <p style="text-align: center; font-size: 1.2em;">A-396254</p>
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Schedule A, Receipts, Rent—Standard Account

Rent

Date of Receipt <i>(mm/dd/yyyy)</i>	Description * <i>*(Report rents from each property separately.)</i>	Amounts
08/1/12	Rental Income - 121 View Place, Newport Beach	\$ 2,500.00
09/1/12		2,500.00
10/1/12		2,500.00
11/1/12		2,500.00
12/1/12		2,500.00
01/1/13		2,500.00
02/1/13		2,500.00
03/1/13		2,500.00
<input checked="" type="checkbox"/> Subtotal, Rent:		\$ 20,000.00

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule A.)

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule A, Receipts, Social Security, Veterans' Benefits, Other Public Benefits—Standard Account

Social Security, veterans' benefits, and other public benefit payments

Date of Receipt (mm/dd/yyyy)	Description * <i>*(Report receipts from each source separately.)</i>	Amounts
4/1/12-- 6/1/12	Social Security, 3 mos. at \$757.00 each*	\$ 2,271.00
7/1/12--12/1/12	Social Security, 6 mos. at \$772.00 each*	4,632.00
1/1/13--3/2/13	Social Security, 3 mos. at \$788.00 each*	2,364.00
<p>* These payments were net of Medicare Part B premiums of \$104 per month automatically deducted from the gross payments made by the Social Security Administration.</p>		
<input checked="" type="checkbox"/> Subtotal, Social Security, Veterans' Benefits, Other Public Benefits:		\$ 9,267.00

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule A.)

Page A 5 of 6 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule A, Receipts, Other Receipts—Standard Account*

* (Use this form for all receipts not described in other Schedule A, Receipts forms.)

Other receipts (add general description): Miscellaneous Receipts

Date of Receipt (mm/dd/yyyy)	Description * * (Report receipts from each source separately.)	Amounts
05/10/2012	State of California, 2012 state income tax refund	\$ 97.00
05/16/2012	O.C. Sup. Court: Refund, excess est. initial investigation assessment	125.00
06/28/2012	American Health, insurance reimbursement for prescription	44.12
08/20/2012	Social Security Administration, Medicare Part B premium refund	13.21
<input checked="" type="checkbox"/> Subtotal, Other Receipts:		\$ <u>279.33</u>

(Add pages as required. Check the box at the bottom of the last page of this receipt category and total the amount of the category. Include that sum in the total of receipts on line 3 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule A.)

Page A 6 of 6 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule B, Gains on Sales—Standard and Simplified Accounts

Gains on sales during period of account

Date (mm/dd/yyyy)	Property Sold	Carry Value *	Sale Price	Gain
10/15/2012	Single-family residence located at 2446 W. Sunburst, Palm Springs, California	\$ 230,900.00	\$ 250,000.00	\$ 19,100.00
<input checked="" type="checkbox"/> Totals, Carry Values, Sale Prices, and Gains:		\$ <u>230,900.00</u>	\$ <u>250,000.00</u>	\$ <u>19,100.00</u>

* See form GC-400(PH)(2)/GC-405(PH)(2) for information about Carry Value.

(List all property sold during the account period that resulted in gains (gross sale price higher than carry value). Include each property's Inventory and Appraisal item number and the date the Inventory and Appraisal containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the carry values, sale prices, and the gains. Carry the total of gains over to line 4 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule B.)

Page B 1 of 1 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

**Schedule C, Disbursements, Conservatee's Residential or Long-Term Care Facility Expenses—
Standard Account**

Conservatee's residential or long-term care facility expenses

Date <i>(mm/dd/yyyy)</i>	Check No.	Payee and Purpose of Payment	Amounts
03/29/2012	104	Best Care Convalescent Hospital, to 3/25	\$ 3,987.40
04/29/2012	108	" " " " , to 4/25	3,160.15
05/29/2012	116	" " " " , to 5/25	3,152.75
06/29/2012	120	" " " " , to 6/25	3,129.75
07/29/2012	124	" " " " , to 7/25	3,039.00
08/23/2012	128	" " " " , to 8/25	3,057.00
09/26/2012	132	" " " " , to 9/25	3,126.00
10/29/2012	137	" " " " , to 10/25	3,112.00
11/28/2012	141	" " " " , to 11/25	3,136.90
12/29/2012	146	" " " " , to 12/25	3,126.50
01/29/2013	150	" " " " , to 1/25	3,112.00
02/15/2013	154	" " " " , to 2/25	2,958.90

The importance of keeping good records can't be overstated! Preparing the accounting will be much easier if you've kept thorough, well-organized records of income and expenses throughout the year.

<input checked="" type="checkbox"/> Subtotal, Conservatee's Residential or Long-Term Care Facility Expenses:			\$ 38,098.35

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF	CASE NUMBER:
(Name): JEANNE LOWRY	A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule C, Disbursements, General Administration Expenses—Standard Account

General administration expenses paid by the estate other than fees of conservator or guardian, or attorney

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
03/29/2012	103	David Lowry (conservator): Reimbursement for payment of first year's bond premium	\$ 235.00
04/11/2012	106	Jared Roberts, Esq. (conservator's attorney), reimbursement of costs advanced: Superior Court of Orange County: filing fee for appt. petition \$335.00 Signal Attorney Service: Service of citation 29.00 Superior Court of Orange County: certified copies, Letters 25.50 Superior Court of Orange County: Court investigator, est. initial investigation assessment 900.00	1,289.50
05/11/2012	111	Mary Smith: Probate referee's appraisal fee	1,306.52
11/06/2012	139	American Indemnity Co.: First year's premium on additional bond	478.40
<input checked="" type="checkbox"/> Subtotal, General Administration Expenses:			\$ <u>3,309.42</u>

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

Page C 2 of 8 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF	CASE NUMBER:
(Name): JEANNE LOWRY	A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule C, Disbursements, Living Expenses—Standard Account

Living expenses (Living expenses include personal expenses, noninstitutional housing costs, clothing, and food.)

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
05/02/2012	109	Verizon California: Conservatee's telephone, to 4/25	\$ 50.34
05/20/2012	113	Comfort-fit Fashions: Clothing for conservatee	260.00
05/25/2012	114	Verizon California: Conservatee's telephone, to 4/24	16.76
06/08/2012	118	Best Care Convalescent Hospital: salon permanent for conservatee	65.00
06/26/2012	119	Verizon California: Conservatee's telephone, to 6/24	74.62
07/11/2012	122	The Party People, Inc.: Party supplies and cake for conservatee's birthday party	95.42
07/25/2012	123	Verizon California: Conservatee's telephone, to 7/25	23.51
08/29/2012	129	Verizon California: Conservatee's telephone, to 8/25	21.02
09/16/2012	131	Lorraine Lowry (conservator's spouse): Reimbursement for incidental grooming items for conservatee	25.77
09/26/2012	133	Verizon California: Conservatee's telephone, to 9/25	16.29
10/25/2012	136	Verizon California: Conservatee's telephone, to 10/25	31.59
11/28/2012	140	Verizon California: Conservatee's telephone, to 11/25	50.33
12/19/2012	145	Shores Department Store: Perfumes and holiday gift items for conservatee to give aide staff and family	157.50
12/29/2012	146	Verizon California: Conservatee's telephone, to 12/25	16.29
01/29/2013	150	Verizon California: Conservatee's telephone, to 1/25	27.18
02/15/2013	155	Verizon California: Conservatee's telephone, to 2/25	20.69
<input checked="" type="checkbox"/> Subtotal, Living Expenses:			\$ 952.31

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule C.)

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<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <div style="text-align: right; margin-top: 10px;"> <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor </div>	CASE NUMBER: <p style="text-align: center; font-size: 1.2em;">A-396254</p>
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Schedule C, Disbursements, Medical Expenses—Standard Account

Medical expenses of conservatee or ward *(Net of direct medical insurance payments, but including insurance premiums paid from estate. Show insurance reimbursements of estate payments as a receipt. You may use form GC-400(A)(6) for that purpose.)*

Date <i>(mm/dd/yyyy)</i>	Check No.	Payee and Purpose of Payment	Amounts
03/15/2012	010(T)	Medicare Ambulance: Transport from rehab facility to nursing home	\$ 60.00
05/02/2012	108	Golden State Pharmacy: Prescriptions for conservatee	25.97
05/25/2012	113	Internal Medicine Group: Medical care for conservatee	135.75
08/06/2012	124	Excellent X-Ray: Medical care for conservatee	105.02
08/23/2012	125	Adam Bright, D.D.S.: Relining of conservatee's upper/lower dentures	550.00
10/20/2012	132	James Starr, D.P.M.: Podiatry services for conservatee	89.82
01/07/2013	143	Howard Lester, M.D.: Ophthalmologic exam and new eyeglasses for conservatee	275.00
<input checked="" type="checkbox"/> Subtotal, Medical Expenses:			\$ <u>1,241.56</u>

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule C.)

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF	CASE NUMBER:
(Name): JEANNE LOWRY	A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule C, Disbursements, Property Sale Expenses—Standard Account

Property sale expenses (Show sales expenses for each property sold separately. Include expenses of sale shown in escrow or other transaction closing statements for which there are no checks or other direct records of payment.)

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
02/15/2012	None	We Close Escrow, Inc.: Costs of sale of Palm Springs vacation home property paid through escrow:	\$
		Escrow fee	\$ 665.00
		Termite inspection/repairs	291.50
		Sub escrow fee, loan pay off	125.00
		Broker's commission	15,000.00
02/15/2012	154	Washington Mutual Bank, secured loan payoff, Palm Springs property	16,081.50 50,500.00
<input checked="" type="checkbox"/> Subtotal, Property Sale Expenses:			\$ 66,581.50

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

Page C 5 of 8 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY _____	CASE NUMBER: A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule C, Disbursements, Property Sale Expenses—Standard Account

Property sale expenses (Show sales expenses for each property sold separately. Include expenses of sale shown in escrow or other transaction closing statements for which there are no checks or other direct records of payment.)

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
02/07/2013	152	Furniture Resales, Inc.: Fee for sale of conservatee's furniture and furnishings in Newport Beach property (20% of total of sales prices)	\$ 500.00
<input checked="" type="checkbox"/> Subtotal, Property Sale Expenses:			\$ 500.00

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

Page C 6 of 8 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule C, Disbursements, Rental Property Expenses—Standard Account

Rental property expenses (Show expenses for each rental property separately.)

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
03/15/2012	102	Downey Savings Bank: February and March payments on loan secured by first trust deed on Newport Beach real property, and \$50 late fee for February payment	\$ 2,450.00
04/02/2012	105	Downey Savings Bank: April loan payment, Newport Beach property	1,200.00
05/15/2012	112	Downey Savings Bank: May loan payment, Newport Beach property	1,200.00
06/02/2012	117	Downey Savings Bank: June loan payment, Newport Beach property	1,200.00
		Downey Savings Bank: July loan payment, Newport Beach property	1,200.00
08/02/2012	125	Downey Savings Bank: Aug. loan payment, Newport Beach property	1,200.00
09/02/2012	130	Downey Savings Bank: Sept. loan payment, Newport Beach property	1,200.00
10/02/2012	134	Downey Savings Bank: Oct. loan payment, Newport Beach property	1,200.00
11/02/2012	138	Downey Savings Bank: Nov. loan payment, Newport Beach property	1,200.00
12/02/2012	142	Downey Savings Bank: Dec. loan payment, Newport Beach property	1,200.00
12/09/2012	143	Orange County Tax Collector property taxes (both halves), Newport Beach property	2,054.00
12/09/2012	144	U-R Safe Insurance Services, Inc.: Annual Premium, landlord's insurance, Newport Beach property	1,529.90
01/03/2013	148	Downey Savings Bank: Jan. loan payment, Newport Beach property	1,200.00
02/02/2013	152	Downey Savings Bank: Feb. loan payment, Newport Beach property	1,200.00
02/28/2013	156	Downey Savings Bank: Mar. loan payment, Newport Beach property	1,200.00
<input checked="" type="checkbox"/> Subtotal, Rental Property Expenses:			\$ 20,433.90

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

Page c 7 of 8 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF	CASE NUMBER:
(Name): JEANNE LOWRY	A-396254
<input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	

Schedule C, Disbursements, Other Expenses—Standard Account**Other expenses** (add general description): Miscellaneous expenses

Date (mm/dd/yyyy)	Check No.	Payee and Purpose of Payment	Amounts
03/15/2012	101	Tax Preparers, Inc.: Preparation of conservatee's 2011 state and federal income tax returns	\$ 300.00
04/11/2012	107	Internal Revenue Service: Balance due, conservatee's 2011 federal income taxes	154.00

This disbursement (or payment) schedule, and Schedule A, Receipts, have been prepared in the Standard Account format, in which receipts and disbursements (payments) are listed by separate subject-matter categories. You may always choose to prepare your accounting in this format. However, there is also a Simplified Account format for smaller or less complex accountings, in which receipts and disbursements are listed chronologically. In a Simplified Account prepared on the Judicial Council form schedules, you would use form GC-405(A) for receipts and form GC-405(C) for disbursements. You may also decide to prepare your own schedules without using the Judicial Council forms.

*Rule 7.575 of the California Rules of Court defines these two types of accountings and prescribes when you must use the Standard Account format, when you may use the Simplified Account format, when you must use Judicial Council accounting schedules, and what information must be included in schedules that are not prepared on those forms. Sometimes local court rules may require additional information about an expenditure, such as a check number of the check written to pay it. You and your attorney should carefully review rule 7.575 and your court's local rules concerning the content and format of accounting schedules. **L***

Subtotal, Conservatee's or Ward's Other Expenses: \$ 454.00

(Add pages as required. Check the box at the bottom of the last page of this disbursement category and total the amount of the category. Include that sum in the total of disbursements on line 8 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)).

The page total to the right is the number of pages in Schedule C.)

Page C 8 of 8 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP (Name): JEANNE LOWRY	<input type="checkbox"/> GUARDIANSHIP OF <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule D, Losses on Sales—Standard and Simplified Accounts

Losses on sales during period of account

Date (mm/dd/yyyy)	Property Sold	Carry Value *	Sale Price	Loss
05/15/2012	1994 Oldsmobile 2-door Cutlass Supreme automobile (I & A, Attach. 2, item 7)	\$ 3,125.00	\$ 3,000.00	\$ 125.00
<input checked="" type="checkbox"/> Totals, Carry Values, Sale Prices, and Losses:		\$ 3,125.00	\$ 3,000.00	\$ 125.00

* See form GC-400(PH)(2)/GC-405(PH)(2) for information about Carry Value.

(List all property sold during the account period that resulted in losses (carry value higher than gross sale price). Include each property's inventory item number and the date the inventory containing the property was filed. Add pages as required. Check the box at the bottom of the last page of this schedule and total the carry values, sale prices, and the losses. Carry the total of losses over to line 9 of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule D.)

Page D 1 of 1 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule E, Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts

(Cash assets are assets that may be appraised by the guardian or conservator and listed on Attachment 1 of the inventory. See Probate Code sections 2610(c) and 8901 and instructions on page 2 of Inventory and Appraisal (form DE-160/GC-040). List all cash assets and group them by the inventory in which they appear and identify the inventory by its filing date and type (e.g., Partial No. 1, Final, Supplemental, Correcting, etc.).)

Cash Assets on Hand as of (last date of account period): March 7, 2013

Description of Cash Assets	Value
Southern California Savings Bank, Account No. 14655 (checking)	\$ 5,728.91
Southern California Savings Bank, Account No. 14654 (savings)	57,593.58
Hometown Federal Bank Certificate of Deposit, No. 1765432	11,633.04
Downey Savings Bank Certificate of Deposit, No. 298254	50,000.00
Washington Mutual Bank Certificate of Deposit, No. 862-11457	100,000.00
<input checked="" type="checkbox"/> Total, Cash Assets:	\$ 224,955.53

(Add pages as required to list all cash assets. Check the box at the bottom of the last page of this asset category and total the amount of the category. Carry that sum over to line 13a of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule E, including both Cash Assets and Non-Cash Assets on Hand.)

Page E 1 of 2 pages

<input checked="" type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP OF (Name): JEANNE LOWRY <input checked="" type="checkbox"/> Conservatee <input type="checkbox"/> Minor	CASE NUMBER: A-396254
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Schedule E, Non-Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts

(Non-cash assets are assets that must be appraised by a probate referee and listed on Attachment 2 of the inventory. See Probate Code sections 2610(c) and 8902 and instructions on page 2 of the Inventory and Appraisal (Form DE-160/GC-040). List all non-cash assets, group them by the inventory in which their latest appraised values appear, or if none, as after-acquired assets in order of their purchase dates. Identify the inventory by its filing date and type (e.g., Partial No. 1, Final, Supplemental, Correcting, etc.).)

Non-Cash Assets on Hand as of (last date of account period): March 7, 2013

Description of Non-Cash Assets	Estimated Market Value	Carry Value *
1425 shares Safeguard Investment Mutual Fund (Inv. & App., Attach 2, Item 4)	\$ 95,675.00	\$ 92,525.00
One \$50 U.S. Savings Bond, Series E (Inv. & App., Attach. 2, Item 5)	255.00	263.00
Seven \$100 U.S. Savings Bonds, Series EE (Inv. & App., Attach. 2, Item 6)	2,750.00	3,101.00
Single family residence, 121 View Place, Newport Beach (Inv. & App., Attach. 2, Item 1)	1,100,000.00	950,000.00
Diamond wedding ring, 2 carat (Inv. & App., Attach. 2, Item 8)	2,500.00	2,000.00
<input checked="" type="checkbox"/> Totals, Non-Cash Assets :	\$ <u>1,201,180.00</u>	\$ <u>1,047,889.00</u>

* (The carry value of an asset that is included in an inventory is its appraised value. The carry value of an asset purchased for the estate after appointment of the guardian or conservator is its purchase price.) (Add pages as required to list all non-cash assets. Check the box at the bottom of the last page of this asset category and total the estimated and carry values of the non-cash assets. Carry the total of the carry values over to line 13b of the Summary of Account (form GC-400(SUM)/GC-405(SUM)). The page total to the right is the number of pages in Schedule E, including both cash assets and non-cash assets on hand.)

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DECLARATION OF JARED ROBERTS IN SUPPORT OF REQUEST FOR ATTORNEY’S FEES

I, Jared Roberts, declare as follows:

1. I am an attorney at law, licensed to practice in the courts of the State of California, and attorney of record for David Lowry, conservator of the person and estate of Jeanne Lowry. I have represented the conservator throughout the period of this account, and indeed since before this proceeding began.

2. I am familiar with the time and other records maintained by my firm in this matter. All services performed by my firm were performed by me.

3. I am requesting an attorney’s fee of \$5,850.00 for my legal services to the conservator during the period of this account, representing 19.5 hours of services at the hourly rate of \$300.00. I was admitted to the California Bar in 1985. Probate and related matters, including conservatorships, have formed a substantial part of my practice since 1990. I am a member of the Probate and Trust Section of the Orange County Bar Association, and the Estate Planning, Trust and Probate Law Section of the California Bar.

4. My legal services can be broken down into the following subject matter categories, with the indicated number of hours spent in each category:

A.	Appointment of conservator and change of conservatee’s personal residence:	7.5 hrs.
B.	Preparation of Inventory and Appraisal, and appraisal process:	1.5 hrs.
C.	Consignment sale of personal property:	2.0 hrs.
D.	Sale of real property, confirmation of sale, application for order increasing bond:	4.0 hrs.
E.	Preparation of First Account Current, petition and report, and proposed order:	<u>4.5 hrs.</u>
	Total Hours	<u>19.5 hrs.</u>

/

1 **Category A. Services**

2 5. These services include preparation of the Petition for Appointment of Conservator and all
3 supporting documents. This in turn required two meetings and several telephone conversations with
4 Mr. Lowry to collect the information necessary initially to determine whether conservatorship was
5 appropriate and to consider the possible alternatives referred to in the Confidential Supplemental
6 Information statement, and later to complete the petition and required supporting documents.

7 6. I conducted a telephone interview with Mrs. Lowry's treating physician, an internist, con-
8 cerning Mrs. Lowry's condition generally, and specifically her physical problems that would prevent
9 her attendance at the hearing on the petition, and prepared, obtained, and filed the internist's declara-
10 tion. I arranged for Mrs. Lowry's examination and evaluation by a psychologist, and discussed the
11 evaluation with the psychologist and with Mr. Lowry, in order to obtain the information necessary to
12 complete the Conservatorship Capacity Declaration, the Pre-Move Notice of Proposed Change of
13 Personal Residence of Conservatee or Ward, and the Determination of Conservatee's Appropriate
14 Level of Care. Based on that information, I prepared, circulated for signature, and filed these docu-
15 ments. I also discussed the reasons for the latter two documents with a number of the conservatee's
16 relatives, in person or telephonically.

17 7. I prepared and arranged for personal service of the Citation on Mrs. Lowry, and prepared
18 and served the Notices of Hearing of the appointment petition and the pre-move notice on the inter-
19 ested persons identified in the proof of service attached to the Notices.

20 8. I prepared the Order Appointing Conservator and the Letters of Conservatorship, and
21 arranged for and filed a conservator's bond.

22 9. I attended and participated in the hearing on the petition for appointment of conservator and
23 completed the steps necessary for Mr. Lowry's successful qualification as conservator of Mrs.
24 Lowry's person and estate.

25 10. No objections were received in response to the pre-move notice advising of the conserva-
26 tee's proposed move from an acute care hospital to a convalescent hospital instead of her former per-
27 sonal residence, so no hearing was held concerning it.

28 /

1 **Category B. Services**

2 11. I met with Mr. Lowry as needed to obtain the information necessary to prepare the conser-
3 vator’s Inventory and Appraisal, prepared the inventory based on that information and on documents
4 supplied by Mr. Lowry, transmitted the completed inventory to the Probate Referee, and corresponded
5 with the referee as needed to enable him to complete his appraisal of the Attachment 2 assets, includ-
6 ing real property in Orange and Riverside County. Upon completion of the referee’s appraisal, I circu-
7 lated the returned Inventory and Appraisal to Mr. Lowry for his signature and filed it within the time
8 required by law.

9 **Category C. Services**

10 12. I discussed with Mr. Lowry the need to sell the furnishings in Mrs. Lowry’s Newport
11 Beach home so the home could be rented following Mrs. Lowry’s move to a care facility from the
12 acute care hospital soon after Mr. Lowry’s appointment as conservator. We decided, after discussions
13 with several used furniture dealers, my research into the requirements for the sale of personal proper-
14 ty in a conservatorship, and consideration of an auction sale, to proceed with one of the dealers in a
15 consignment sale at the home, similar to an estate sale but conducted professionally after suitable
16 advertising and promotion. I discussed the proposed contract with the furniture dealer with Mr.
17 Lowry, reviewed the existing insurance coverage on the premises that might affect the sale conducted
18 there, and successfully negotiated some changes in the initial proposal. The sale was successful. All
19 pieces were sold for their collective appraised value.

20 **Category D. Services**

21 13. I discussed the prospects for sale of the conservatee’s Palm Springs vacation home with Mr.
22 Lowry and advised him of the sale confirmation process and other requirements of the law applicable
23 to real property sales. I reviewed the proposed listing agreement and modified it to allow for court
24 confirmation and the prospect of an overbid. After an acceptable offer was received, I reviewed the
25 escrow instructions, advised my client as needed during the escrow process, and prepared and filed
26 the petition for confirmation of sale. I attended the hearing on that petition, at which no overbids
27 were received and the sale was confirmed.

28 14. In order to obtain the order confirming sale, I prepared and presented to the court an appli-

1 cation for increase in the conservator's bond, in the amount of net cash proceeds expected to be
2 received at the completion of the sale. I prepared and filed the court's order increasing the bond and
3 arranged with the surety company to file the increased bond. The order confirming sale was subse-
4 quently filed and the escrow closed without delay on February 15, 2013.

5 **Category E. Services**

6 15. I assisted Mr. Lowry in the establishment of a simple system for keeping track of income
7 and disbursements in the conservatorship, and monitored its maintenance during the period of this
8 account. Based on information provided by Mr. Lowry and verified by statements from financial
9 institutions that I filed with the court at the time this account was filed, I prepared the schedules of
10 the account and the petition and report to which they are attached. I reviewed the completed petition,
11 account, and report with Mr. Lowry; obtained his signature; and filed it. I will prepare and serve a
12 copy of a Notice of Hearing on the account and report, on all persons entitled to such service under
13 the law.

14 16. My request for compensation includes an estimated one and one-half hours to attend and
15 participate in the court hearing on the petition, account, and report. I have prepared the proposed
16 order settling the account and approving the petition as filed. I will present the proposed order to the
17 court at or in advance of the hearing, and will see to its execution and filing after the hearing.

18 17. I anticipate, and this request for compensation assumes, that there will be no objections to the
19 petition, account, and report, and that it will be approved as filed. If that anticipation and assumption
20 are incorrect, I respectfully request the right to submit a supplemental request for compensation for
21 additional services as future events may require.

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

24 Executed on April 17, 2013

25
26 _____
27 Jared Roberts
28

APPENDIX E

SUGGESTED READINGS FOR CONSERVATORS

E.1 Developmentally and Mentally Disabled People

Bet Tzedek Legal Services

3250 Wilshire Blvd., 13th Floor

Los Angeles, CA 90010

1-323-939-0506

www.bettzedek.org

info@bettzedek.org

- *Limited Conservatorship Guide: A User-Friendly Guide to Understanding Conservatorship for Adults with Intellectual/Developmental Disabilities* (Bet Tzedek Legal Services, 2014).

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

Disability Rights California

1-800-776-5746

www.disabilityrightsca.org

Central and Sacramento

Regional Office

1831 K Street,
Sacramento, CA 95811-4114
1-916-504-5800
Legal Unit: 1-916-488-9950
Administration: 1-916-488-9955
TTY: 1-800-719-5798

San Diego Regional Office

1111 Sixth Ave., Suite 200
San Diego, CA 92101
1-619-239-7681
TTY: 1-800-576-9269

Los Angeles Regional Office

350 South Bixel Street, Suite 290
Los Angeles, CA 90017
1-213-213-8000
TTY: 1-800-781-5456

Bay Area Regional Office

1330 Broadway, Suite 500
Oakland, CA 94612
1-510-267-1200
TTY: 1-800-649-0154

- *California Children's Services: Service Rights and Entitlement Programs Affecting Californians with Disabilities* (Disability Rights California, 2009).
- In-Home Supportive Services publications.
- Conservatorship publications.
- Mental health publications (including dementia conservatorships).
- *Rights under the Lanterman Act* (manual covering regional center services for people with developmental disabilities).

Other Authors

Mejía, Barbara Holian, *Limited Conservatorships: Protecting Developmentally Disabled Adults; A How-to Guide* (Love in Law, 2013). Paperback available from Amazon. Includes information about the court process for appointment, but also considerable discussion of post-appointment issues.

E.2 The Elderly

American Association of Retired Persons

www.aarp.org/entertainment/books/bookstore/

Home, Family and Caregiving

- Hurme, Sally Balch, *Checklist for Family Caregivers: A Guide to Making It Manageable* (ABA/AARP, 2015). Available from Amazon, Barnes & Noble, and the American Bar Association.
- Goyer, Amy, *Juggling Life, Work, and Caregiving* (AARP, 2015). Available from Amazon, Barnes & Noble, and the American Bar Association.

Bet Tzedek Legal Services

3250 Wilshire Blvd., 13th Floor

Los Angeles, CA 90010

1-323-939-0506

www.bettzedek.org

info@bettzedek.org

- *Assisted Living Companion: An Easy-to-Use Guide to Assisted Living in California* (Bet Tzedek Legal Services, 2013).
- *Nursing Home Companion: An Easy-to-Use Guide to California Nursing Home Laws and Practices* (Bet Tzedek Legal Services, 2011; May 2012 update avail.).

Other Authors

Feil, Naomi, and Vicki de Klerk-Rubin, *The Validation Breakthrough: Simple Techniques for Communicating with People with Alzheimer's and Other Dementias*, 3rd ed. (Health Professions Press, 2012). Available from Amazon in Kindle and print editions.

Kaufman, Sharon R., *The Ageless Self: Sources of Meaning in Late Life*, rev. ed. (University of Wisconsin Press, 1994).

This book reports the results of a study in which older people expressed their feelings about becoming old. Each story is unique, but together the stories weave a clear pattern.

Mace, Nancy L., and Peter V. Rabins, *The 36-Hour Day: A Family Guide to Caring for People Who Have Alzheimer's Disease, Related Dementias, and Memory Loss*, 5th ed. (John Hopkins University Press, 2011).

Written in straightforward language, this book explores the meaning of dementia, getting medical help for the impaired person, characteristic problems of dementia, problems in independent living, problems in daily care and with various types of behavior, getting outside help, how caring for an impaired person affects the caregiver, financial and legal issues, and nursing home placement.

Schulz, Richard, ed. in chief; Linda S. Noelker, Kenneth Rockwood, and Richard Sprott, assoc. eds., *The Encyclopedia of Aging*, 4th ed. (Springer Publishing Company, 2006).

This reference work provides concise, authoritative explanations for hundreds of terms and concepts related to the life of the elderly and the aging process. It also covers the growing range of programs and services for the elderly provided by community and government agencies and by legal, health, and other professionals.

Matthews, Joseph L., *Beat the Nursing Home Trap: A Consumer's Guide to Assisted Living and Long-Term Care*, 3rd ed. (Nolo Press, 2001).

This book offers guidance in choosing and paying for long-term care. It shows how to protect home and assets from prohibitive care costs, how to get the most from Medicare and other government programs, how to evaluate nursing home insurance policies and avoid scams, and how to prevent unnecessary institutionalization. (Available from third-party sellers through Amazon.)

Matthews, Joseph L., *Social Security, Medicare & Government Pensions: Get the Most Out of Your Retirement and Medical Benefits*, 20th ed. (Nolo Press, 2015).

This book offers guidance for those who are 55 and over through the maze of rights and benefits, including Medicare, Medicaid, and social security retirement and disability benefits.

Quinn, Mary Joy, and Susan K. Tomita, *Elder Abuse and Neglect: Causes, Diagnosis, and Intervention Strategies*, 2nd ed. (Springer Publishing Company, 1997).

This textbook, with a foreword by Congressman Claude Pepper, details the types of abuse and neglect that the elderly experience. It was written for those who work with the elderly, but it is readable by the nonexpert. The book contains several case histories. It can be especially useful to the conservator appointed to correct abuses a conservatee may have suffered in the past.

Silverstone, Barbara, and Helen Kandel Hyman, *You and Your Aging Parent*, 4th ed. (Oxford University Press, 2008).

This book's subtitle is *A Family Guide to Emotional, Social, Health, and Financial Problems*. The book begins by exploring the various emotions that families feel about aging relatives as well as feelings those relatives have about younger family members. The book explores other issues related to aging, including loss of physical health, retirement, sex after 65, facing death, getting help, and legal problems.

E.3 Fiction

Albom, Mitch, *Tuesdays with Morrie: An Old Man, a Young Man, and Life's Greatest Lesson*, 10th anniv. ed. (Broadway Books, 2002).

Berry, Wendell, *The Memory of Old Jack* (Counterpoint Books, 1999).

Laurence, Margaret, *The Stone Angel* (University of Chicago Press, 1993).

Moore, Brian, with an afterword by Mary Gordon, *The Lonely Passion of Judith Hearne* (NYRB Classics, 2010).

Sarton, May, *As We Are Now*, reissue ed. (W. W. Norton and Company, 1992).

APPENDIX F

JUDICIAL COUNCIL CONSERVATORSHIP FORMS

F.1 Judicial Council Forms

The Judicial Council of California has adopted standard legal forms that should be used in all conservatorships. You are probably already familiar with some of them. You were named in a Petition for Appointment of Probate Conservator (form GC-310). This means that you were probably also a petitioner who prepared, or whose lawyer prepared, the petition that you signed. If you did not petition for your appointment as conservator, you signed a statement attached to the petition of someone else in which you consented to be appointed. The judge signed an order appointing you as conservator. The petition, several of the supporting documents attached to it, and the court's order were prepared using Judicial Council forms.

As conservator, you will use additional Judicial Council forms for your Inventory and Appraisal and, if necessary, to notify the court of your conservatee's change of address or telephone number. Financial and other institutions will use Judicial Council forms to advise the court that accounts under their control have been changed or newly opened to reflect the conservatorship. There are many other examples.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

This appendix contains links to the Judicial Council forms commonly used in conservatorships. Most of them are *mandatory*. This means that you must use them whenever they apply. Other forms are *optional*—that is, not mandatory—but you may use them if you choose and the forms apply to the matter involved.

You can tell whether a Judicial Council form is mandatory by looking at the lower left corner of the form, below the horizontal line. Every mandatory form will state in its lower left corner, “Form Adopted for Mandatory Use” or “Mandatory Form.” Optional forms will state that they were “Approved” or simply say “Optional Form.”

The Judicial Council forms linked in this appendix are current as of the date that this handbook was posted on the judicial branch’s website. However, new forms may be adopted or approved from time to time, and all of them may be revised as needed. You must check to determine whether any new forms that address your situation have been adopted or approved and that the form you want to use is the latest version. The effective date of each form appears in the form’s lower left corner. The court clerk keeps a list of the effective dates of the latest versions of all forms. The next section explains how you may obtain the latest forms.

F.2 Obtaining Judicial Council Forms

Your lawyer will provide the Judicial Council forms you need. He or she gets them from the court clerk, from the Internet in the manner described in this appendix, or from a computer software form subscription service. **L**

If you aren’t represented by a lawyer, you may obtain originals of all Judicial Council forms from the court clerk. You may photocopy original forms purchased in this way and use the copies. But Judicial Council forms are also available online without charge. If you have access to a computer connected to the Internet, you can get the latest forms by going to the California Courts website at www.courts.ca.gov/forms. To locate a particular conservatorship form, from the Select a Category dropdown menu, select Probate—Guardianships and Conservatorships, and click on See Forms. The list of forms will appear. They are identified by the prefix “GC-” before the form number, or by the prefix “FW-” before the number followed by the suffix “-GC” after that number. (The latter forms are used for court fee waivers in guardianship and conservatorship matters and in civil actions involving guardians and conservators as parties. They appear under Probate—Guardianships and Conservatorships and also under Fee Waiver.)

For forms identified with the prefix “MC-,” select Miscellaneous from the dropdown menu and click on See Forms. After you’ve selected the group, scroll down to and click on the form you need. You can fill in the form online and print it out for you to sign and file it. If necessary, you could print out an empty form and fill it out by typewriter. But you should prepare these forms online if at all possible. Mandatory forms are identified in the scroll-down lists by asterisks.

Judicial Council forms are also available from several publishers in print or electronic formats. Information about publishers is available at the website mentioned above. The Judicial Council neither endorses the publisher’s products nor represents that their forms are accurate.

F.3 Conservatorship Forms

A list of Judicial Council forms that must or may be used in conservatorships before and after appointment of a conservator follows. Links to the online forms are provided.

Form No.	Title
Petitions, Orders, and Other General-Use Forms	
GC-020	Notice of Hearing—Guardianship or Conservatorship <i>www.courts.ca.gov/documents/gc020.pdf</i>
GC-020(MA)	Attachment to Notice of Hearing Proof of Service by Mail <i>www.courts.ca.gov/documents/gc020ma.pdf</i>
GC-020(P)	Proof of Personal Service of Notice of Hearing—Guardianship or Conservatorship <i>www.courts.ca.gov/documents/gc020p.pdf</i>
GC-020(PA)	Attachment to Notice of Hearing Proof of Personal Service <i>www.courts.ca.gov/documents/gc020pa.pdf</i>
GC-021	Order Dispensing with Notice <i>www.courts.ca.gov/documents/gc021.pdf</i>
GC-022	Order Prescribing Notice (Probate) <i>www.courts.ca.gov/documents/gc022.pdf</i>
GC-035	Request for Special Notice <i>www.courts.ca.gov/documents/gc035.pdf</i>

Form No.	Title
Petitions, Orders, and Other General-Use Forms (cont'd.)	
GC-040	Inventory and Appraisal <i>www.courts.ca.gov/documents/gc040.pdf</i>
GC-041	Inventory and Appraisal Attachment <i>www.courts.ca.gov/documents/gc041.pdf</i>
GC-042	Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property <i>www.courts.ca.gov/documents/gc042.pdf</i>
GC-042(MA)	Attachment to Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property <i>www.courts.ca.gov/documents/gc042ma.pdf</i>
GC-050	Notice of Taking Possession or Control of an Asset of Minor or Conservatee <i>www.courts.ca.gov/documents/gc050.pdf</i>
GC-051	Notice of Opening or Changing a Guardianship or Conservatorship Account or Safe-Deposit Box <i>www.courts.ca.gov/documents/gc051.pdf</i>
GC-060	Report of Sale and Petition for Order Confirming Sale of Real Property <i>www.courts.ca.gov/documents/gc060.pdf</i>
GC-065	Order Confirming Sale of Real Property <i>www.courts.ca.gov/documents/gc065.pdf</i>
GC-070	Ex Parte Petition for Authority to Sell Securities and Order <i>www.courts.ca.gov/documents/gc070.pdf</i>
GC-075	Ex Parte Petition for Approval of Sale of Personal Property and Order <i>www.courts.ca.gov/documents/gc075.pdf</i>
GC-079	Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward <i>www.courts.ca.gov/documents/gc079.pdf</i>
GC-079(MA)	Attachment to Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward <i>www.courts.ca.gov/documents/gc079ma.pdf</i>
GC-080	Post-Move Notice of Change of Residence of Conservatee or Ward <i>www.courts.ca.gov/documents/gc080.pdf</i>

Form No.	Title
Petitions, Orders, and Other General-Use Forms (cont'd.)	
GC-080(MA)	Attachment to Post-Move Notice of Change of Residence of Conservatee or Ward www.courts.ca.gov/documents/gc080ma.pdf
GC-085	Petition to Fix Residence Outside the State of California www.courts.ca.gov/documents/gc085.pdf
GC-090	Order Fixing Residence Outside the State of California www.courts.ca.gov/documents/gc090.pdf
GC-111	Petition for Appointment of Temporary Conservator www.courts.ca.gov/documents/gc111.pdf
GC-112	Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator www.courts.ca.gov/documents/gc112.pdf
GC-112(A-1)	Declaration in Support of Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator www.courts.ca.gov/documents/gc112a1.pdf
GC-112(A-2)	Declaration Continuation Page www.courts.ca.gov/documents/gc112a2.pdf
GC-115	Order on Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator www.courts.ca.gov/documents/gc115.pdf
GC-141	Order Appointing Temporary Conservator www.courts.ca.gov/documents/gc141.pdf
GC-150	Letters of Temporary Guardianship or Conservatorship www.courts.ca.gov/documents/gc150.pdf
GC-310	Petition for Appointment of Probate Conservator www.courts.ca.gov/documents/gc310.pdf
GC-310(A-PF)	Professional Fiduciary Attachment to Petition for Appointment of Guardian or Conservator www.courts.ca.gov/documents/gc310apf.pdf

Form No.	Title
Petitions, Orders, and Other General-Use Forms (cont'd.)	
GC-312	Confidential Supplemental Information www.courts.ca.gov/documents/gc312.pdf
GC-313	Attachment Requesting Special Orders Regarding Dementia www.courts.ca.gov/documents/gc313.pdf
GC-314	Confidential Conservator Screening Form www.courts.ca.gov/documents/gc314.pdf
GC-320	Citation for Conservatorship www.courts.ca.gov/documents/gc320.pdf
GC-322	Citation—Probate www.courts.ca.gov/documents/gc322.pdf
GC-330	Order Appointing Court Investigator www.courts.ca.gov/documents/gc330.pdf
GC-331	Order Appointing Court Investigator (Review and Successor Conservator Investigations) www.courts.ca.gov/documents/gc331.pdf
GC-332	Order Setting Biennial Review Investigation and Directing Status Report Before Review www.courts.ca.gov/documents/gc332.pdf
GC-333	Ex Parte Application for Order Authorizing Completion of Capacity Declaration—HIPAA www.courts.ca.gov/documents/gc333.pdf
GC-334	Ex Parte Order Re Completion of Capacity Declaration—HIPAA www.courts.ca.gov/documents/gc334.pdf
GC-335	Capacity Declaration—Conservatorship www.courts.ca.gov/documents/gc335.pdf
GC-335A	Dementia Attachment to Capacity Declaration—Conservatorship www.courts.ca.gov/documents/gc335a.pdf
GC-336	Ex Parte Order Authorizing Disclosure of (Proposed) Conservatee’s Health Information to Court Investigator—HIPAA www.courts.ca.gov/documents/gc336.pdf

Form No.	Title
Petitions, Orders, and Other General-Use Forms (<i>cont'd.</i>)	
GC-340	Order Appointing Probate Conservator www.courts.ca.gov/documents/gc340.pdf
GC-341	Notice of Conservatee's Rights www.courts.ca.gov/documents/gc341.pdf
GC-341(MA)	Attachment to Notice of Conservatee's Rights www.courts.ca.gov/documents/gc341ma.pdf
GC-348	Duties of Conservator and Acknowledgment of Receipt of <i>Handbook for Conservators</i> www.courts.ca.gov/documents/gc348.pdf
GC-350	Letters of Conservatorship www.courts.ca.gov/documents/gc350.pdf
GC-355	Determination of Conservatee's Appropriate Level of Care www.courts.ca.gov/documents/gc355.pdf
GC-380	Petition for Exclusive Authority to Give Consent for Medical Treatment www.courts.ca.gov/documents/gc380.pdf
GC-385	Order Authorizing Conservator to Give Consent for Medical Treatment www.courts.ca.gov/documents/gc385.pdf
GC-395	Ex Parte Petition for Final Discharge and Order www.courts.ca.gov/documents/gc395.pdf
Registration Forms Under California Conservatorship Jurisdiction Act	
GC-360	Conservatorship Registration Cover Sheet and Attestation of Conservatee's Non-Residence in California www.courts.ca.gov/documents/gc360.pdf
GC-361	Notice of Intent to Register Conservatorship www.courts.ca.gov/documents/gc361.pdf
GC-362	Conservatorship Registrant's Acknowledgment of Receipt of <i>Handbook for Conservators</i> www.courts.ca.gov/documents/gc362.pdf

Form No.	Title
Accounting Schedules	
GC-400(A)(1)	Schedule A, Receipts, Dividends—Standard Account <i>www.courts.ca.gov/documents/gc400a1.pdf</i>
GC-400(A)(2)	Schedule A, Receipts, Interest—Standard Account <i>www.courts.ca.gov/documents/gc400a2.pdf</i>
GC-400(A)(3)	Schedule A, Receipts, Pensions, Annuities, and Other Regular Periodic Payments—Standard Account <i>www.courts.ca.gov/documents/gc400a3.pdf</i>
GC-400(A)(4)	Schedule A, Receipts, Rent—Standard Account <i>www.courts.ca.gov/documents/gc400a4.pdf</i>
GC-400(A)(5)	Schedule A, Receipts, Social Security, Veterans’ Benefits, Other Public Benefits—Standard Account <i>www.courts.ca.gov/documents/gc400a5.pdf</i>
GC-400(A)(6)	Schedule A, Receipts, Other Receipts—Standard Account <i>www.courts.ca.gov/documents/gc400a6.pdf</i>
GC-400(A)(C)	Schedules A and C, Receipts and Disbursements Worksheet—Standard Account <i>www.courts.ca.gov/documents/gc400ac.pdf</i>
GC-400(AP)/ GC-405(AP)	Additional Property Received During Period of Account—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400ap.pdf</i>
GC-400(B)/ GC-405(B)	Schedule B, Gains on Sales—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400b.pdf</i>
GC-400(C)(1)	Schedule C, Disbursements, Conservatee’s Caregiver Expenses—Standard Account <i>www.courts.ca.gov/documents/gc400c1.pdf</i>
GC-400(C)(2)	Schedule C, Disbursements, Conservatee’s Residential or Long-Term Care Facility Expenses—Standard Account <i>www.courts.ca.gov/documents/gc400c2.pdf</i>
GC-400(C)(4)	Schedule C, Disbursements, Fiduciary and Attorney Fees—Standard Account <i>www.courts.ca.gov/documents/gc400c4.pdf</i>

Form No.	Title
Accounting Schedules (cont'd.)	
GC-400(C)(5)	Schedule C, Disbursements, General Administration Expenses—Standard Account www.courts.ca.gov/documents/gc400c5.pdf
GC-400(C)(6)	Schedule C, Disbursements, Investment Expenses—Standard Account www.courts.ca.gov/documents/gc400c6.pdf
GC-400(C)(7)	Schedule C, Disbursements, Living Expenses—Standard Account www.courts.ca.gov/documents/gc400c7.pdf
GC-400(C)(8)	Schedule C, Disbursements, Medical Expenses—Standard Account www.courts.ca.gov/documents/gc400c8.pdf
GC-400(C)(9)	Schedule C, Disbursements, Property Sale Expenses—Standard Account www.courts.ca.gov/documents/gc400c9.pdf
GC-400(C)(10)	Schedule C, Disbursements, Rental Property Expenses—Standard Account www.courts.ca.gov/documents/gc400c10.pdf
GC-400(C)(11)	Schedule C, Disbursements, Other Expenses—Standard Account www.courts.ca.gov/documents/gc400c11.pdf
GC-400(D)/ GC-405(D)	Schedule D, Losses on Sales—Standard and Simplified Accounts www.courts.ca.gov/documents/gc400d.pdf
GC-400(DIST)/ GC-405(DIST)	Distributions to Conservatee or Ward—Standard and Simplified Accounts www.courts.ca.gov/documents/gc400dist.pdf
GC-400(E)(1)/ GC-405(E)(1)	Schedule E, Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts www.courts.ca.gov/documents/gc400e1.pdf
GC-400(E)(2)/ GC-405(E)(2)	Schedule E, Non-Cash Assets on Hand at End of Account Period—Standard and Simplified Accounts www.courts.ca.gov/documents/gc400e2.pdf
GC-400(F)/ GC-405(F)	Schedule F, Changes in Form of Assets—Standard and Simplified Accounts www.courts.ca.gov/documents/gc400f.pdf

Form No.	Title
Accounting Schedules (cont'd.)	
GC-400(G)/ GC-405(G)	Schedule G, Liabilities at End of Account Period—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400g.pdf</i>
GC-400(NI)	Net Income from Trade or Business—Standard Account <i>www.courts.ca.gov/documents/gc400ni.pdf</i>
GC-400(NL)	Net Loss from Trade or Business—Standard Account <i>www.courts.ca.gov/documents/gc400nl.pdf</i>
GC-400(OCH)/ GC-405(OCH)	Other Charges—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400och.pdf</i>
GC-400(OCR)/ GC-405(OCR)	Other Credits—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400ocr.pdf</i>
GC-400(PH)(1)/ GC-405(PH)(1)	Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400ph1.pdf</i>
GC-400(PH)(2)/ GC-405(PH)(2)	Non-Cash Assets on Hand at Beginning of Account Period—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400ph2.pdf</i>
GC-400(SUM)/ GC-405(SUM)	Summary of Account—Standard and Simplified Accounts <i>www.courts.ca.gov/documents/gc400sum.pdf</i>
GC-405(A)	Schedule A, Receipts—Simplified Account <i>www.courts.ca.gov/documents/gc405a.pdf</i>
GC-405(C)	Schedule C, Disbursements—Simplified Account <i>www.courts.ca.gov/documents/gc405c.pdf</i>
Fee Waiver Forms for Use in Conservatorships or by Conservators in Other Civil Actions	
FW-001-INFO	Information Sheet on Waiver of Superior Court Fees and Costs <i>www.courts.ca.gov/documents/fw001info.pdf</i>
FW-001-GC	Request to Waive Court Fees (Ward or Conservatee) <i>www.courts.ca.gov/documents/fw001gc.pdf</i>
FW-002-GC	Request to Waive Additional Court Fees (Superior Court) (Ward or Conservatee) <i>www.courts.ca.gov/documents/fw002gc.pdf</i>

Form No.	Title
Fee Waiver Forms for Use in Conservatorships or by Conservators in Other Civil Actions (cont'd.)	
FW-003-GC	Order on Court Fee Waiver (Superior Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw003gc.pdf
FW-005-GC	Notice: Waiver of Court Fees (Superior Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw005gc.pdf
FW-006-GC	Request for Hearing About Court Fee Waiver Order (Superior Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw006gc.pdf
FW-007-GC	Notice on Hearing About Court Fees (Ward or Conservatee) www.courts.ca.gov/documents/fw007gc.pdf
FW-008-GC	Order on Court Fee Waiver After Hearing (Superior Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw008gc.pdf
FW-010-GC	Notice to Court of Improved Financial Situation or Settlement (Ward or Conservatee) www.courts.ca.gov/documents/fw010gc.pdf
FW-011-GC	Notice to Appear for Reconsideration of Fee Waiver (Ward or Conservatee) www.courts.ca.gov/documents/fw011gc.pdf
FW-012-GC	Order on Court Fee Waiver After Reconsideration Hearing (Superior Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw012gc.pdf
APP-015/ FW-015-INFO	Information Sheet on Waiver of Appellate Court Fees (Supreme Court, Court of Appeal, Appellate Division) www.courts.ca.gov/documents/fw015info.pdf
APP-016-GC/ FW-016-GC	Order on Court Fee Waiver (Court of Appeal or Supreme Court) (Ward or Conservatee) www.courts.ca.gov/documents/fw016gc.pdf

Form No.	Title
Miscellaneous Forms	
MC-355	Order to Deposit Money into Blocked Account <i>www.courts.ca.gov/documents/mc355.pdf</i>
MC-356	Receipt and Acknowledgment of Order for the Deposit of Money into Blocked Account <i>www.courts.ca.gov/documents/mc356.pdf</i>
MC-357	Petition for Withdrawal of Funds from Blocked Account <i>www.courts.ca.gov/documents/mc357.pdf</i>
MC-358	Order for Withdrawal of Funds from Blocked Account <i>www.courts.ca.gov/documents/mc358.pdf</i>
MC-020	Additional Page [to be attached to any form] <i>www.courts.ca.gov/documents/mc020.pdf</i>

APPENDIX G

GLOSSARY

401(k) plan	A retirement plan, sponsored by an employer, in which an individual employee contributes a portion of his or her salary for investment for retirement. Employers often contribute matching funds to employee 401(k) plans.
account, accounting, account and report	Elements of the detailed report that a conservator of the estate must file with the court. In this handbook, the terms <i>account</i> and <i>account and report</i> refer to the entire document that must be filed with the court, including a narrative report of the conservatee's current circumstances and the schedules of income and expense and property on hand that show the financial condition of the conservatee's estate. <i>Account</i> is also used as a verb, as in "the conservator's duty to <i>account</i> to the court." The term <i>accounting</i> refers to the schedule portion of the account and report.
account current	An account filed by a conservator of the estate that is not the last account filed at the end of the conservator's service or at the end of the conservatorship. See <i>final account</i> .
advance health care directive	An instruction by a patient concerning a health care decision. There are two general types of directives. The first, an <i>individual health care instruction</i> , may be oral or in writing. The second, a power of attorney for health care, must be in writing and must meet other format and content requirements. A written advance health care directive may include a nomination of the patient's conservator.

Legal Advice The symbol **L** notes a situation that may require your lawyer's advice or assistance.

aide	A person hired to help someone who needs assistance with dressing, grooming, bathing, shopping, cooking, eating, moving around, washing clothes, or taking medicine. Aides also are referred to as attendants, in-home aides, in-home assistants, caregivers, care providers, companions, companion aides, chore workers, home health aides, homemakers, housekeepers, LVNs, live-ins, and nurse's aides.
allowable charge	A permissible or proper charge or expense to be paid from the conservatee's estate.
allowance	A sum of cash that the court has authorized the conservator to provide to the conservatee periodically, usually monthly. Once the allowance has been paid to the conservatee, the conservator of the estate is no longer responsible for it and does not have to show in an account what the conservatee did with the allowance money.
assessment	An evaluation of a conservatee's needs for care and assistance, performed by a team of professionals with specialties such as health, aging, and social work. The team evaluates the person's short-term and long-term memory and considers the conservatee's ability to make decisions and to carry out daily living activities.
assets	A conservatee's property, including bank accounts, real estate, stocks, bonds, cars, furniture, jewelry, and other personal belongings.
attorney in fact	A person appointed by the principal to act for the principal under a power of attorney. Also called an <i>agent</i> .
beneficiary	A person or organization legally entitled to receive benefits under a legal document such as a will, a trust agreement or declaration of trust, or a life insurance policy.

- blocked account** A special kind of bank account often set up in a conservatorship. A withdrawal can't be made from a blocked account unless a court has authorized it. Judges sometimes require a conservator to establish blocked accounts to hold all or part of a conservatee's cash assets. A conservator may also, with the permission of the court, elect to set up a blocked account. This is often done to reduce the size and cost of a bond because money in a blocked account is not counted in setting the amount of the bond.
- bond** A promise to the court in a conservatorship matter made by a special kind of insurance company, called a *surety company* or just a *surety*, to reimburse a conservatee's estate for losses resulting from intentional wrongdoing or mismanagement by the conservator. The surety company reimburses the estate for such losses up to the amount of the bond and then goes after the conservator's personal assets to recover the amount paid. The judge almost always requires a conservator of the estate to obtain a bond.
- care facility** Rest homes, group homes, nursing homes, and convalescent hospitals are care facilities. There are several types of care facilities, each offering a different level of services. The most common care facilities are board-and-care homes, which provide a room, meals, and personal-care assistance and supervision, and skilled nursing facilities, which provide a room, meals, personal hygiene assistance, and round-the-clock nursing services.
- case management,
case manager** A service, often performed by a gerontologist, social worker, nurse, or another professional, the *case manager*. This service includes assessing a conservatee's social, mental, emotional, health, and personal-care needs; helping a conservator find and arrange services to meet those needs; monitoring the situation to make changes as needed; and working to coordinate the services of various agencies and individuals.

certified copy

A copy of a document filed with a court to which the court clerk has attached a *certificate*, a statement saying that the original of the document has been filed with the court and that the copy is a true and correct copy of the original. A certified copy of a document filed with a court is often required by government agencies and others as proof that the original document exists and has been filed with the court.

The clerk charges a fee for providing the copy or comparing a copy provided by someone else with the original, completing the certificate, and affixing the court's seal to the copy. The seal either is a crimp seal or is in purple ink so a photocopy of a certified copy can be detected.

commissioner

A judicial officer appointed by the court to perform a variety of functions. Commissioners often conduct hearings, supervise the probate court's staff, and assist judges in conservatorship and other probate proceedings.

community property

A type of joint and equal ownership of property by married persons in California. The most common type of community property is property acquired with a husband's or a wife's earnings while they are married to each other and are living together in California. However, the term also includes assets that a married couple has agreed are community property. Community property is not *separate property*.

Separate property is property that a person acquired before marriage or that he or she receives as a gift or inheritance during marriage. Separate property also includes property that a married couple has agreed is the separate property of one of them. A married couple can agree to change community property into separate property, and vice versa, but their agreement must be in writing and must satisfy other legal requirements.

consent, consent to medical treatment	Agreement with a proposed medical treatment required of a patient after a qualified person has given the patient sufficient information about the procedure and its risks. Doctors and hospitals may ask a patient to sign a consent form to show that a full explanation of a recommended treatment or procedure has been given and that the patient has agreed to the treatment or procedure. A court may decide that a patient who is a conservatee does not have the capacity to give an informed consent to a medical treatment or procedure. In that event, consent to the treatment or procedure may be given by the patient's conservator of the person, and he or she may sign a consent form on behalf of the patient. See <i>exclusive authority</i> .
conservatee	A person whom a judge has decided is unable to care for himself or herself or to manage his or her own financial affairs and for whom a conservator has been appointed.
conservator	A person or organization appointed by a judge to arrange for a conservatee's personal care, to manage the conservatee's finances, or both.
conservator of the estate	A person or organization appointed by a judge to manage the financial affairs of another person (the conservatee) whom a judge has decided is unable to do so.
conservator of the person	A person or organization appointed by a judge to provide for the personal care and protection of another person (the conservatee) whom a judge has decided is unable to do so.
conservatorship estate	A conservatee's income and assets managed by a conservator of the estate.
conservatorship plan	A formal or informal document that contains a systematic assessment of the conservatee's needs and a plan to meet those needs, based on the conservatee's physical and mental condition at present and for the foreseeable future, and the resources available from the conservatee's estate and other available sources to finance the plan.

court investigator	An investigator employed by the court to assist judges in conservatorship cases. He or she visits and speaks with people involved in a conservatorship, including the proposed conservatee and the proposed conservator, and reports his or her findings back to the court. Once a conservatorship has been started, the court investigator will visit the conservatee periodically to see how things are going. A court investigator is also sometimes called a <i>probate investigator</i> .
decedent's estate	A type of judicial proceeding in the probate court in which the affairs of a person who has died, the <i>decedent</i> , are wound up, his or her debts and taxes are paid, and his or her remaining property is distributed to the persons or organizations entitled to it under his or her will, or, if there is no will, as provided by law. Decedent's estate proceedings are sometimes called <i>probate estates</i> or simply <i>probates</i> .
deferred compensation	A type of retirement plan in which an employee agrees to defer receipt of a portion of his or her compensation in return for the employer's promise to pay the employee at some time in the future.
dementia	A mental disorder, usually brought on by a disease or trauma, in which the ability of a person to think, remember, perceive, or understand his or her circumstances is impaired. Alzheimer's disease and vascular dementia are two common types of dementia.
developmental disability	A condition that begins before age 18, continues indefinitely, and causes a substantial handicap. Mental retardation, cerebral palsy, epilepsy, and autism are developmental disabilities, as are other conditions closely related to or treated like mental retardation. A person who has a physical disability but isn't also mentally disabled isn't developmentally disabled unless the person's handicapping condition is cerebral palsy or another of the conditions listed above.
disbursement	A payment from the conservatorship estate.
discharge	The court's order formally releasing a conservator of the estate from his or her duties and responsibilities and ending his or her liability on the bond.

domestic partner	One of two persons who have chosen to join together in a relationship that meets all of the requirements of Family Code section 297, including the filing of a Declaration of Domestic Partnership with the California Secretary of State. The persons must share a common residence, be at least 18 years of age, agree to be jointly responsible for each other's basic living expenses, not be married or a member of another domestic partnership, and not be related by blood in a way that would prevent them from being married to each other in California. Persons of opposite sexes may form a domestic partnership if at least one of them is over the age of 62.
durable power of attorney	A kind of power of attorney in which the powers granted to the attorney in fact survive the principal's incapacity or become effective only upon the principal's incapacity. A durable power of attorney that was created by a conservatee before a conservator was appointed cannot be revoked by a conservator without prior court approval.
durable power of attorney for health care	A specific kind of power of attorney in which the principal authorizes the attorney in fact to make health care decisions for the principal. Because it is a durable power of attorney, it continues in effect or becomes effective when the principal loses capacity to make a health care decision. It is a type of advance health care directive subject to strict requirements for format, content, and execution.
estate	All assets owned by a conservatee that a conservator of the estate collects, manages, and is responsible for. The estate includes all income and benefits to which the conservatee is entitled, such as social security, public assistance, or a pension. The estate does not include salary or wages paid to a conservatee for his or her personal services, the community property of a married conservatee under the management of his or her capable wife or husband, or property held by the trustee of a trust.

- exclusive authority** The power a conservator of the person may be granted by the court to make health care decisions for the conservatee if the court decides that the conservatee has lost the capacity to make his or her own informed health care decisions. If the court has not granted exclusive authority to the conservator, the conservatee can make his or her own health care decisions. In that situation, the conservator can also make decisions. However, the decision of the conservator is not required and is not effective if the conservatee objects to the conservator's decision.
- executor** A person named in a will to carry out the will's directions and requests after the death of the person who signed the will (the *testator*), usually under the supervision of the probate court in a decedent's estate proceeding. The executor's main responsibilities are collecting and managing the testator's estate, paying his or her debts and death taxes, and distributing the remaining money and other property as directed by the will.
- file** To give a document to the court clerk's office to be added to the court's file. The court's file in a conservatorship case contains the court's records of that case. When someone files an original document, he or she usually also provides a copy of it to the clerk. The clerk stamps the copy with a stamp that says "Filed" and the current date and returns it to the person who provided it. The copy, referred to as a *conformed* copy, is evidence that the original document was filed. A conformed copy of a document is often sufficient proof that the original has been filed, but when more formal proof is required, a certified copy must be used.
- final account** The last account and report filed by a conservator of the estate after his or her administration of the conservatorship has ended by the conservatee's death, by the conservator's voluntary resignation approved by the court, by the conservator's removal, or by termination of the conservatorship and restoration of the conservatee's authority to handle his or her own affairs. See ***account current***.
- general conservatorship** A *regular* probate conservatorship, as opposed to a limited conservatorship for an adult with developmental disabilities.

guardianship	A California court proceeding in which a judge appoints someone to care for a person under 18 years of age, to manage his or her property, or both. In some states, conservatorship of an adult is called <i>guardianship</i> , but not in California. In some special cases, the court may appoint a guardian of the person of an individual after his or her 18th birthday or extend an existing guardianship of the person of an individual until he or she reaches age 21.
income	Money or property paid to a conservatorship estate from any source on a one-time or periodic basis. This includes pension, public assistance, and social security payments; interest on savings accounts, notes, and bonds; and dividends on stock. It does not include salary or wages from the conservatee's employment or earnings from any other asset that is not part of the conservatorship estate.
individual retirement account (IRA)	An account set up by an individual with institutions, including financial institutions such as banks and other kinds of institutions such as stockbrokers, into which money or property is placed for retirement. The money or property is placed in, or contributed to, the account, the individual gets an income tax deduction for the contribution, and he or she is not required to pay taxes on any income earned by the contributed money or property until it is withdrawn after retirement. The contributions to the IRA or the income earned in the IRA can't be withdrawn from the account before the individual reaches retirement age without severe tax penalties.
Inventory and Appraisal	A list of all the assets owned by a conservatee at the time a conservator was appointed and an appraisal of their value on that date. The Inventory and Appraisal must be prepared by the conservator of the estate and filed with the court no later than 90 days after the conservator's appointment.

**joint tenancy,
joint tenant**

A form of joint ownership of assets—including bank accounts, stocks, and real estate—by two or more persons, each of whom is called a *joint tenant*. If one joint tenant dies, his or her portion of the property passes automatically to the remaining joint tenants, no matter what his or her will says. This feature is called the *right of survivorship* and is a means of avoiding a decedent's estate proceeding to transfer the property following the death of the first joint tenant.

Judicial Council

A state government body, chaired by the Chief Justice of the California Supreme Court, charged with improving the administration of justice in California's courts by performing a number of tasks. Prominent among them are development of the rules of practice and procedure known as the California Rules of Court, and creation and adoption of the official practice forms known as Judicial Council forms.

Keogh plan

A type of retirement plan similar to an IRA available to self-employed individuals.

**Lanterman-
Petris-Short
conservatorship (LPS
conservatorship)**

A conservatorship for persons gravely disabled—that is, unable to provide for their basic needs for food, clothing, and shelter—as the result of a mental disorder or chronic alcoholism. The term comes from the name of the 1969 law establishing California's system for involuntary psychiatric treatment of mentally ill persons and their placement in locked psychiatric hospitals. The law is named for the legislators who wrote it and led the fight for its passage. An LPS conservatorship shares some characteristics with a probate conservatorship, but there are also many differences. Among the latter is the requirement in LPS conservatorships that the initial petition for appointment of an LPS conservator must be filed by a government agency, usually a public guardian, although the petition may ask for the appointment of a private citizen.

**Letters of
Conservatorship**

A Judicial Council form that identifies an appointed conservator, states that the conservator is authorized to act on the conservatee's behalf, and indicates that the conservator has qualified for the position. Also called Letters.

Letters of Temporary Conservatorship	A Judicial Council form that identifies an appointed temporary conservator and indicates that the temporary conservator has qualified for the position, states that the temporary conservator is authorized to act on the conservatee's behalf until the expiration date provided in the document, and identifies any additional powers granted to or restrictions placed on, the temporary conservator. Also called Temporary Letters.
life care	A term referring to personal and health care provided to a person for a period longer than a year under a contract to provide it in exchange for an entrance fee or a monthly fee. Life-care contracts are regulated by the Continuing Care Branch of the California Department of Social Services.
limited conservatorship, limited conservator, limited conservatee	A conservatorship for a developmentally disabled adult. The person appointed as conservator in this kind of proceeding is called a <i>limited conservator</i> , and the person for whom the limited conservator has been appointed is called the <i>limited conservatee</i> .
living will	A written advance health care directive in which a person gives instructions concerning his or her maintenance by means of artificial life-support devices.
local court rules	A superior court's instructions and requirements. These rules are in addition to state laws passed by the California Legislature and signed by the Governor, called <i>statutes</i> , which are sorted by subject matter and bound together in books called <i>codes</i> . Local court rules apply only in the superior court that adopted them. There are also rules of court, called the California Rules of Court, adopted by the Judicial Council and applicable to all California courts. Local court rules must be consistent with the California Rules of Court, and the California Rules of Court must be consistent with the statutes.
nondurable power of attorney	Also called <i>regular</i> power of attorney. A kind of power of attorney that terminates upon the principal's incapacity. A conservator of the estate can revoke a nondurable power of attorney created by the conservatee without prior court approval.

ombudsman	An advocate for the rights of a person under the care and control of another person or organization. The California Department of Aging sponsors a Long-Term Care Ombudsman Program with offices that serve each county. The ombudsman program advocates for the rights of people in long-term care facilities and responds to complaints about abuse.
petition	A formal, written request, filed with a court, asking a judge to make a particular decision. For example, a petition may ask the court to appoint a conservator, authorize a conservator to sell the conservatee's home, require a conservatee to have medical treatment, or settle an account and approve a report of a conservator. The term is also used as a verb, as in, to <i>petition</i> the court for an award of compensation.
petition and report	The narrative portion of an account and report, containing a description of the conservatee's circumstances and any requests made for approval of the court but not including the accounting portion of the account and report.
POD account	A pay-on-death bank account. This kind of account has a named payee who will be entitled to collect whatever is in the account when the person who established the account dies, but has no rights in the account during that person's life. If a conservatee created the account, the named payee does not own the account or any of the money or other assets in it during the conservatee's lifetime. However, the conservator should not remove the named payee's name or withdraw any money or property from a POD account without the named payee's permission or a court order, because to do so might interfere with the conservatee's intended estate plan.
power of appointment	A right given in a will or in a trust document to a person to designate who will receive some benefit under the will or the trust.

power of attorney	<p>A written document in which a person (the <i>principal</i>) authorizes someone else (the <i>agent</i> or the <i>attorney in fact</i>) to act for the principal. A general power of attorney authorizes the agent to manage all of the principal's affairs. A limited power of attorney is more restrictive, for example, by setting a time limit before it expires, by limiting the agent to particular actions, or by authorizing the agent to manage only particular assets.</p> <p>There are durable and regular or nondurable powers of attorney. A nondurable power of attorney ends when the principal becomes legally incapacitated or unable to handle his or her own affairs. A durable power of attorney stays in effect if the principal becomes incapacitated, or it can be set up to take effect only when the principal becomes incapacitated.</p> <p>There are two types of durable powers of attorney: a durable power of attorney to manage financial affairs and a durable power of attorney for health care.</p>
powers	<p>A term that refers to the authority granted to a conservator to take certain actions for the benefit of the conservatee or the conservatee's estate.</p>
principal	<p>A person who creates a power of attorney that authorizes another person, the attorney in fact or <i>agent</i>, to act for the principal in financial matters or concerning the principal's health care decisions. The term is also used to refer to the assets held in a trust to distinguish them from the income earned by the trust. See <i>trustee</i>.</p>
probate conservatorship	<p>The most common kind of conservatorship, defined and governed by statutes collected in the California Probate Code.</p>
probate court	<p>The department of each county's superior court that deals with probate conservatorships, guardianships, decedent's estates, and certain other kinds of matters. Unlike in some states, California's probate court is a branch of the superior court, not a separate court.</p>
probate investigator	<p>See <i>court investigator</i>.</p>

- probate referee** A professional appointed by the California State Controller and assigned by a judge in the probate court to appraise the value of a conservatee's noncash assets listed on the Inventory and Appraisal.
- psychotropic drugs** Prescription medicines used to alter cognition, mood, or behavior. These medicines are sometimes used to treat persons with dementia. You need specific prior court authority based on a strong showing to authorize the use of these drugs in the treatment of the conservatee. You may be able to obtain a list of psychotropic drugs from your county's department or agency that governs or provides mental health services.
- public guardian** A county agency authorized to accept appointment and to serve as conservator of a person living in the county. The public guardian is sometimes also called the *public conservator*.
- qualify** The term applied to the steps a proposed conservator must complete after he or she is appointed in order to receive Letters of Conservatorship. A conservator of the estate qualifies by obtaining and filing a bond. Conservators of the person and of the estate also must take an oath, sign a receipt for this handbook, and satisfy any local court requirements before they qualify.
- receipts** Cash or other assets received by a conservatorship estate other than those listed on the Inventory and Appraisal. Receipts must be reported to the court in periodic accounts. Receipts generally include all estate income.
- reconcile, reconciliation** The process of comparing your record of transactions of a bank account with the bank's records to verify the balance in the account as of a certain date.

record	Delivery of a document concerning real property to a county recorder to make it part of the official record concerning that property. Recording a document gives the public some notice of its contents. Recording is generally used to establish the owners of interests in real property. Recording Letters of Conservatorship in a county where the conservatee owns an interest in real property gives notice of the existence of the conservatorship to any person attempting to deal with the real property and imposes a duty on that person to inquire further. The person is treated under the law as though he or she knew about the conservatorship even if he or she had no actual knowledge of it.
regional center	A nonprofit agency that contracts with the State of California to provide or find services for people with developmental disabilities. These services include assessment, case management, advocacy for disabled persons' rights, job training, counseling, recreation, and personal care. There are 21 regional centers throughout the state.
register	Method by which a conservator from another state or jurisdiction can gain authority to act in this state on behalf of a nonresident conservatee.
removal	A judge's withdrawal of a conservator's appointment. The court then appoints another person as successor conservator. The removed conservator is replaced involuntarily because the court has determined that he or she isn't doing or isn't capable of doing the job right.
respite care	Temporary care provided to the conservatee to relieve his or her caregiver for brief periods.
revocable living trust	See <i>trustee</i> .

secured-perimeter residential care facility

A specialized kind of care facility designed for the treatment of persons with dementia, featuring secure outer fencing or locked exit doors. To place a conservatee in this kind of facility, the conservator must first establish and the court must find that the conservatee suffers from dementia, lacks capacity to consent to placement, and needs or would benefit from placement in this type of facility, and that this type of facility is the least restrictive placement appropriate for the conservatee's care.

separate property

See *community property*.

SSI

Supplemental Security Income. SSI is a federal aid program, administered by the Social Security Administration, for very low-income seniors and for disabled or blind persons of any age.

substituted judgment petition

A petition in a conservatorship proceeding in which the conservator or another person interested in the conservatorship requests the court to authorize or require the conservator to take certain kinds of proposed actions for the benefit of the conservatee, the estate, or those persons or organizations the conservatee would be likely to provide for or make gifts to. This kind of petition is used in a wide variety of situations. For example, a conservator may be authorized to sign a will or an amendment to a will for the conservatee, to revoke or amend a trust the conservatee had the authority to revoke or amend, or to make a gift from the conservatee's estate.

surety company

A specific kind of insurance company authorized by law to issue a bond to secure proper performance of the duties of a conservator of the estate. If the court finds that the estate has suffered a loss because of the intentional or negligent misconduct of its conservator, it can order the surety company to make good the loss to the estate, up to the face amount of the bond. The surety company then seeks to collect the amount it has paid from the conservator's personal assets.

temporary conservator, temporary conservatorship

A person or organization appointed by the court to handle the personal or financial affairs of a conservatee for a limited period of time while a petition for the appointment of a regular conservator is pending. The temporary conservator and the proposed regular conservator are usually the same person, but different people can also hold the two offices. The proposed regular conservator is sometimes referred to as a *permanent* conservator to distinguish him or her from the temporary conservator, but the regular conservator is only as permanent as the law allows and is always subject to removal by the court or to termination of the conservatorship by restoration of the conservatee's legal capacity. The appointment of a temporary conservator is a step in the regular conservatorship case or proceeding, but that portion of the larger proceeding is sometimes referred to as the temporary conservatorship.

Temporary Letters

See *Letters of Temporary Conservatorship*.

Totten trust account

A bank account in which a person is named as trustee for the benefit of one or more persons who will own the account when the conservatee dies. If the conservatee created the Totten trust account, its beneficiary doesn't own the account until the conservatee dies. As with the POD account, and for the same reason, the conservator should not change the account or withdraw money from it without the beneficiary's permission or a court order. Totten trusts are also known as *trustee bank accounts*.

trustee

A person or institution such as a bank that manages the assets held in a trust for the benefit of the beneficiary of the trust.

The revocable living trust is the most common type of trust seen today. It is a trust intended to take effect during the life of the person creating it (the *settlor* or *trustor*), but which he or she can cancel or modify at any time if he or she has the legal capacity to do so. A conservatee in a general conservatorship is usually considered not to be capable of canceling or modifying a living trust, even though he or she retains the right to write a new will or to amend an existing will.

Revocable living trusts are created to avoid a decedent's estate proceeding after the settlor's death. The trust is, in effect, a substitute for a will. The settlor is often also the original trustee and is usually also a beneficiary of the current income from the assets held in the trust. Most revocable living trusts also authorize the trustee to provide for the settlor's support directly from the assets of the trust (the trust's principal), not just from the income earned by the assets. Many trusts also give the settlor the power to demand that the trustee pay or distribute all or parts of the trust's principal to the settlor.

A properly drafted trust agreement, or declaration of trust, appoints a successor trustee if the original trustee becomes incapable of handling his or her affairs and establishes a method of changing trustees without going to court. By the time you are appointed as conservator, the successor trustee of the conservatee's revocable living trust may have already taken over management of the trust. If he or she has not yet done so, you may be able to help him or her complete the steps necessary to become the acting trustee of the trust. Check with your lawyer first. **L**

If the conservatee created a revocable living trust, assets held in the trust, that is, title to which is held by the trustee, are not part of the conservatorship estate. They are dealt with as the trust instrument provides. However, the successor trustee will most likely have duties to the conservatee as beneficiary of the trust and may be the main source of the conservatee's support. You should develop a close working relationship with the trustee of any trust of which the conservatee is a beneficiary.

Under some circumstances, the conservator of the estate can, with prior approval of the court, exercise the conservatee's power, as settlor of the trust, to revoke or modify it or to compel distributions of trust principal from it. Steps of this kind require close consultation with your lawyer. **L**

HANDBOOK FOR CONSERVATORS
2016 Revised Edition

Judicial Council of California
455 Golden Gate Avenue
San Francisco, CA 94102-3660



California Courts website: www.courts.ca.gov

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Recommend JC approval (has circulated for comment)**

RUPRO Meeting: October 5, 2016

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

Committee or other entity submitting the proposal:

Criminal Law Advisory Committee

Staff contact (name, phone and e-mail): Kimberly DaSilva, (415) 865-4534

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO:

Collection and Disbursement of Fines and Fees After Intercounty Probation Case Transfers

Intercounty Transfer Procedures

Project description from annual agenda:

Collection and Disbursement of Fines and Fees After Intercounty Probation Case Transfers: Develop recommendations to clarify the requirements for the collection and disbursement of fines, fees, and assessments after intercounty transfers under Penal Code section 1203.9; develop related rule and form proposals as needed.

Intercounty Transfer Procedures: Consider rule, form, and legislative proposals to facilitate court implementation of intercounty transfer procedures under Penal Code section 1203.9.

If requesting July 1 or out of cycle, explain:

N/A

Additional Information: (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

In the Spring 2016 cycle, the Criminal Law Advisory Committee circulated for public comment a proposal to amend rule 4.530 in three ways: (1) to clarify file transfer requirements after intercounty transfer under Penal Code section 1203.9, (2) to require receiving courts to notify transferring courts when the receiving court either reduces a felony to a misdemeanor or dismisses a case after transfer, and (3) to make the rule consistent with Assembly Bill 673's amendments to section 1203.9. All three portions of the proposal received comments. CLAC considered the comments and approved for Judicial Council review only the portions which would (1) clarify file transfer requirements, and (2) make the rule consistent with Assembly Bill 673.

The committee submitted for RUPRO's consideration the portion of the proposal which would make the rule consistent with Assembly Bill 673 for RUPRO's September 7, 2016 meeting and RUPRO approved it. At that time, the committee did not submit to RUPRO the file transfer portion of the proposal due to recent cases, *People v. Curry* (2106) 1 Cal. App. 5th 1073, and, later, *People v. Adelman* Cal. Ct. App., Aug. 31, 2016, 2016 WL 4538437, impacting the proposal. Because of that the committee determined that the file transfer portion of the proposal required further analysis. However, the two cases come to opposite conclusions. Because the law is not definitive in this area, the chairs determined that the file transfer portion of the proposal as originally approved by the committee should move forward. The committee now requests that RUPRO approve the file transfer portion of the proposal, as approved by CLAC following the public comment period.

Staff has revised the Judicial Council report to include both portions of the proposal. Because RUPRO already approved the AB 673 compliance portion on September 7th, the file transfer material is highlighted for RUPRO consideration.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27–28, 2016

Title	Agenda Item Type
Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 4.530	January 1, 2017
Recommended by	Date of Report
Criminal Law Advisory Committee Hon. Tricia Ann Bigelow, Chair	September 30, 2016
	Contact
	Kimberly DaSilva, 415-865-4534 kimberly.dasilva@jud.ca.gov

Executive Summary

The Criminal Law Advisory Committee recommends that the Judicial Council amend rule 4.530 of the California Rules of Court, which provides courts with procedures for implementing intercounty transfers of persons on probation and mandatory supervision pursuant to Penal Code section 1203.9. The proposed amendment would (1) clarify file transfer requirements after intercounty transfer under section 1203.9, and (2) make the rule consistent with Assembly Bill 673's amendments to section 1203.9.

Recommendation

The Criminal Law Advisory Committee recommends that the Judicial Council amend California Rules of Court, rule 4.530, effective January 1, 2017, to:

1. Change the rule to require that after intercounty transfer under Penal Code section 1203.9:

- In all cases in which the supervisee is the sole defendant, the transferring court must transmit the entire *original* court file, except exhibits and records of payment, to the receiving court; and
 - If transfer is ordered in a case involving more than one defendant, the transferring court must transmit *certified copies* of the entire court file, except exhibits, to the receiving court.
2. Bring rule 4.530 into compliance with changes to Penal Code section 1203.9 regarding the collection and disbursement of court-ordered debt pursuant to Assembly Bill 673.

The text of the proposed amendment is attached at pages 7–9.

Previous Council Action

At its June 24, 2016, business meeting, the Judicial Council approved Intercounty Probation Case Transfer Statewide Fiscal Procedures (Judicial Council Fiscal Procedures), effective July 1, 2016. These procedures govern the collection, accounting, and distribution of any outstanding court-ordered debt, which must be followed by the transferring and receiving court, county agency, or its authorized collection program for intercounty transfers of probation and mandatory supervision cases. A link to the Judicial Council Fiscal Procedures is included on page 6. These procedures will help implement the new jurisdictional requirements of Penal Code section 1203.9 regarding court-ordered debt.

Rationale for Recommendation

As noted above, rule 4.530 establishes procedures for intercounty transfers of persons on probation or mandatory supervision pursuant to Penal Code section 1203.9.

File transfer requirements

Rule 4.530(g)(5) currently requires a transferring court to transmit “the *entire court file* ... to the receiving court...” (Italics added.) And advisory committee comment to subdivision (g)(5) of the rule states that “[b]efore transmitting the court file, transferring courts should consider retaining copies of the court file in the event of an appeal or a writ.” The rule was designed to ensure that receiving courts are provided complete case information and that transferring courts do not incur the cost and burden of providing certified copies. Transferring courts, however, often require the original court file to adjudicate codefendant proceedings still pending at the time of transfer.

This proposal would amend rule 4.530(g)(5) to clarify that the transferring court must transmit the entire *original* court file except in cases involving codefendants. In cases involving codefendants, the proposal would instead require transferring courts to transmit *certified copies* of the entire court file. The proposal also would amend the related advisory committee comment to explain that transferring courts should retain the original court file for cases subject to the exception when necessary to properly adjudicate any pending or future codefendant proceedings.

Compliance with Assembly Bill 673 (collection and disbursement of court-ordered debt)

AB 673, effective January 1, 2016, changed court jurisdiction over the collection and distribution of court-ordered debt after intercounty transfer. Although receiving courts continue to accept entire jurisdiction over cases transferred under Penal Code section 1203.9,¹ as of January 1, jurisdiction over the collection and disbursement of fines, forfeitures, penalties, assessments, and restitution ordered by the transferring court but not fully paid, remains with the transferring court unless the receiving court elects to collect and the transferring court approves the arrangement. Specifically, AB 673 made the following changes to Penal Code section 1203.9:

- Changed the effective date of transfer to the date the transferring court makes the order of transfer (subdivision (b)).
- Required courts to order that unpaid fines, fees, forfeitures, penalties, assessments, or restitution at the time of transfer be paid by the defendant to the collection program for the transferring court for distribution and accounting once collected (subdivision (d)(1)).
- Allowed receiving courts and county probation departments to impose additional local fees and costs as authorized, and requires that they notify the collection program for the transferring court of those changes (subdivision (d)(2)).
- Required that local fees imposed by receiving courts and county probation departments be paid by the defendant to the collection program for the transferring court, which shall remit those fees and costs to the receiving court for accounting and distribution (subdivision (d)(3)).
- Allowed a receiving court, upon approval of the transferring court, to elect to collect all of the court-ordered payments from a defendant attributable to the case under which the defendant is being supervised and required that the receiving court's collection program transmit the revenue collected to the collection program for the transferring court for deposit, accounting, and distribution. In this situation, the collection program for the receiving court shall not charge administrative fees without a written agreement with the transferring court's collection program and the collection program for the receiving court, and the receiving court shall not report revenue owed or collected on behalf of the collection program for the transferring court in annual reports to the Judicial Council (subdivisions (e)(1), (2)).
- The bill also required that the Judicial Council consider the adoption of rules of court as it deems appropriate to implement the collection, accounting, and disbursement requirements of the bill (subdivision (g)).

This proposal would bring rule 4.530 into compliance with these changes to Penal Code section 1203.9 by amending it to:

¹ With the exception of jurisdiction over undetermined victim restitution, pursuant to section 1203.9, subdivision (a)(3), which also remains with the transferring court.

- Change the effective date of the transfer to the date of the transfer order;
- Require the transferring court to retain records of payment upon transfer of the court file to the receiving court;
- Require the probation officer of the transferring county to retain records of payment upon transfer of the file to the receiving county;
- Delete the two-week holding period of the transferring court and probation files on the transferred case;
- Add a subdivision detailing the new jurisdictional requirements regarding court-ordered debt; and,
- Require court collection, accounting, and disbursement of court-ordered debt procedures to be consistent with Judicial Council fiscal procedures located on the “Budget and Finance” page of the Judicial Council website.

Comments, Alternatives Considered, and Policy Implications

This proposal circulated for public comment during the spring 2016 cycle. A total of five comments were received; four of those comments contained multiple questions and/or suggestions. A chart with all comments received and the committee’s responses is attached at pages 10–17.

Two commentators directly addressed the file transfer portion of the proposal. The Superior Court of Orange County submitted three comments on this portion. The court first suggested that the proposal address electronic records. The Judicial Council is currently in the process of modernizing its rules and forms to make them consistent with modern e-business practices. This includes a Rules Modernization Project, led by the Information Technology Advisory Committee (ITAC). The committee will work with ITAC on developments appropriate for the California Rules of Court related to criminal procedure.

Second, the court suggested adding language to clarify that, in multiple defendant cases, only documents related to the transferring defendant need to be transmitted to the receiving court. The committee agreed with the suggestion and added language to that effect in an advisory comment. The court’s third suggestion on the file transfer portion of the proposal noted an inconsistency between multiple and single defendant cases in the amount of time the transferring court had to transmit the file to the receiving court. The committee made the time period consistent for both types of cases by deleting the “two weeks” transfer period for codefendant cases in subdivision (g)(5) and replacing it with a requirement that the file transfer occur “upon transfer” as required for single defendant cases in subdivision (g)(3).

Also, the Superior Court of Los Angeles County commented that the requirement in multiple defendant cases—that the transferring court keep the original file and send certified copies to the receiving court—would create more work for the court. It also noted, however, that it did not know how often that would occur. The committee anticipates that the increased workload would not be significant.

Only one of the comments directly addressed the AB 673 compliance portion of the proposal. That comment stated that the circulated proposal did not specifically address the situation in their county, where the supervisees typically paid their court-ordered debt to the county probation department, not to the court's collections department. The comment recommended adding clarifying language to support other entities collecting payments ordered by the court. The committee agreed with this comment and has added an advisory comment to subdivision (h), clarifying that court collections programs may include county probation departments.

Three commentators also addressed a third proposed amendment to rule 4.530 that was included in the proposal as circulated in the spring 2016 cycle. That proposed amendment to rule 4.530 would have required receiving courts to notify transferring courts when the receiving court either reduced a felony to a misdemeanor or dismissed a transferred case. One of the comments included a concern about the increased workload it would put on the courts. After discussion, the committee decided that the anticipated burden on the courts would outweigh the utility of this particular portion of the proposal as circulated. While not recommending that the Judicial Council adopt this third portion of the proposal at this time, the committee may consider other means, including working with other advisory bodies, to develop a less burdensome method of ensuring that transferring court records accurately reflect when a case has been transferred.

Internal comments

Since this proposal was circulated for public comment there have been two Court of Appeal decisions addressing whether petitions for recall of sentences under Proposition 47, filed after an intercounty transfer, should be filed in the transferring court or the receiving court. Both courts recognized the conflict between Penal Code section 1170.18(a) (Prop. 47) and section 1203.9 (intercounty transfers). In *People v. Curry* (2106) 1 Cal.App.5th 1073, the Court of Appeal, First Appellate District, held that section 1170.18(a) controls and that petitions for recall must be filed in the sentencing court. (*ibid.*) In contrast, *People v. Adelman*, Cal. Ct. App., Aug. 31, 2016, (2016 WL 4538437), decided after *Curry*, resolves that same issue in favor of section 1203.9, holding that petitions for recall of sentences under Prop. 47 are properly filed in the receiving court. The committee considered whether any changes to the file transfer portion of the proposal were needed in light of these two decisions. Ultimately, it decided to recommend the proposal without changes. The cases do not undermine the proposal because they provide limited guidance on the narrow issue of where to file petitions for recall of sentences under Prop. 47. The proposal is important to advance at this time to provide clarity to transferring courts that they are to transmit their original file to the receiving court, retaining it and sending a certified copy only in multiple-defendant cases.

The committee is also in the process of developing a legislative proposal to amend section 1203.9. The proposal would authorize a receiving court to refer a particular hearing or other proceeding back to the transferring court for the limited purpose of conducting the proceeding if the receiving court determines, based upon the geographic location of the parties, victims, witnesses, evidence, or for any other reason, that it would be more appropriate for the matter to

be conducted by the transferring court. By including the provision to permit referral of the case back to the transferring county “for any other reason,” the committee intends to cover the Prop. 47 situation regardless of whether or how the Supreme Court resolves the issue.

Alternatives

One alternative to moving forward with both portions of the proposal is to approve the AB 673 compliance portion of the proposal and decline approval of the file transfer portion of the proposal in order to wait and see if the California Supreme Court will resolve the apparent split of authority between *Curry* and *Adelmann*. The committee considered this alternative but decided to move ahead with the file transfer portion given the current split among the courts, and to address any necessary changes if future case law requires it.

Implementation Requirements, Costs, and Operational Impacts

Minimal staff training is anticipated for the file transfer clarification. However, staff training required for compliance with AB 673 may be significant given the new Judicial Council Fiscal Procedures. Unfortunately, this is unavoidable due to the change in the law.

Attachments and Links

1. Cal. Rules of Court, rule 4.530, with proposed amendments, at pages 7–9
2. Judicial Council-approved Intercounty Probation Case Transfer Statewide Fiscal Procedures <https://jcc.legistar.com/View.ashx?M=F&ID=4494246&GUID=F0163E08-393E-4F3B-99D6-86FA33DC2176>
3. Chart of comments, at pages 10–17
4. Assembly Bill 673 http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB673

Rule 4.530 of the California Rules of Court is amended, effective January 1, 2017, to read:

1 **Rule 4.530. Intercounty transfer of probation and mandatory supervision cases**

2
3 (a)–(f) * * *

4
5 (g) **Transfer**

- 6
7 (1) If the transferring court determines that the permanent residence of the
8 supervised person is in the county of the receiving court, the transferring
9 court must transfer the case unless it determines that transfer would be
10 inappropriate and states its reasons on the record.
11
12 (2) To the extent possible, the transferring court must establish any amount of
13 restitution owed by the supervised person before it orders the transfer.
14
15 (3) Transfer is effective the date the transferring court orders the transfer. Upon
16 transfer of the case, the receiving court must accept the entire jurisdiction
17 over the case.
18
19 (4) The orders for transfer must include an order committing the supervised
20 person to the care and custody of the probation officer of the receiving county
21 and an order for reimbursement of reasonable costs for processing the
22 transfer to be paid to the county of the transferring court in accordance with
23 Penal Code section 1203.1b.
24
25 (5) Upon transfer of the case, the transferring court must transmit any records
26 of payments and the entire original court file, except exhibits, to the receiving
27 court within two weeks of the transfer order in all cases in which the
28 supervisee is the sole defendant, except the transferring court shall not
29 transfer (A) exhibits or (B) any records of payments. If transfer is ordered in
30 a case involving more than one defendant, the transferring court must
31 transmit certified copies of the entire original court file, except exhibits and
32 any records of payments, to the receiving court upon transfer of the case.
33
34 (6) Upon transfer the probation officer of the transferring county must transmit,
35 at a minimum, any court orders, probation or mandatory supervision reports,
36 and case plans, and all records of payments to the probation officer of the
37 receiving county within two weeks of the transfer order.
38
39 (7) Upon transfer of the case, the probation officer of the transferring county
40 must notify the supervised person of the transfer order. The supervised
41 person must report to the probation officer of the receiving county no later
42 than 30 days after transfer unless the transferring court orders the supervised
43 person to report sooner. If the supervised person is in custody at the time of

1 transfer, the supervised person must report to the probation officer of the
2 receiving county no later than 30 days after being released from custody
3 unless the transferring court orders the supervised person to report sooner.
4 Any jail sentence imposed as a condition of probation or mandatory
5 supervision prior to transfer must be served in the transferring county unless
6 otherwise authorized by law.

7
8 **(h) Court-ordered debt**

9
10 (1) In accordance with Penal Code section 1203.9(d) and (e):

11
12 (A) If the transferring court has ordered the defendant to pay fines, fees,
13 forfeitures, penalties, assessments, or restitution, the transfer order must
14 require that those and any other amounts ordered by the transferring
15 court that are still unpaid at the time of transfer be paid by the
16 defendant to the collection program for the transferring court for proper
17 distribution and accounting once collected.

18
19 (B) The receiving court and receiving county probation department may
20 impose additional local fees and costs as authorized.

21
22 (C) Upon approval of a transferring court, a receiving court may elect to
23 collect all of the court-ordered payments from a defendant attributable
24 to the case under which the defendant is being supervised.

25
26 (2) Policies and procedures for implementation of the collection, accounting, and
27 disbursement of court-ordered debt under this rule must be consistent with
28 Judicial Council fiscal procedures available at www.courts.ca.gov.

29
30
31 **Advisory Committee Comment**

32
33 Subdivision (g)(5) requires the transferring court to transmit the entire **original** court file, except
34 exhibits **and any records of payments**, to the court of the receiving county **in all cases in which**
35 **the supervisee is the sole defendant**. Before transmitting the **entire original** court file, transferring
36 courts should consider retaining copies of the court file in the event of an appeal or a writ. **In**
37 **cases involving more than one defendant, subdivision (g)(5) requires the transferring court to**
38 **transmit certified copies of the entire original court file to ensure that transferring courts are able**
39 **to properly adjudicate any pending or future codefendant proceedings. Only documents related to**
40 **the transferring defendant must be transmitted to the receiving court.**

41
42 Subdivision (g)(7) clarifies that any jail sentence imposed as a condition of probation or
43 mandatory supervision before transfer must be served in the transferring county unless otherwise

1 authorized by law. For example, Penal Code section 1208.5 authorizes the boards of supervisors
2 of two or more counties with work furlough programs to enter into agreements to allow work-
3 furlough-eligible persons sentenced to or imprisoned in one county jail to transfer to another
4 county jail.

5

6 Subdivision (h) requires defendants still owing fines, fees, forfeitures, penalties, assessments, or
7 restitution to pay the transferring court's collection program. In counties where the county
8 probation department collects this court-ordered debt, the term "collection program" is intended
9 to include the county probation department.

SPR16-12

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
1.	Albert De La Isla Principal Administrative Analyst Superior Court of California, Orange County	N/I	<p>In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:</p> <ul style="list-style-type: none"> •Does the proposal appropriately address the stated purpose? <p>(1) Response: For courts that maintain an electronic record, there should be language relating to electronic records and being able to send those records electronically and also document that successful receipt for records electronically as well as currently being done with Orange County, Los Angeles and Riverside.</p> <p>(2) Also, there should be clarifying language that only documents related to the transferring defendant (on multiple defendant cases) need to be transmitted to the receiving court.</p> <p>(3) Subsection (g) (3) specifies that if approved, a transfer will be effective the date the transferring court orders the transfer.</p>	<p>(1) This comment is addressed to the proposal clarifying file transfer procedures. The Judicial Council is currently in the process of modernizing its rules and forms to make them consistent with modern e-business practices. In some instances, such as electronic criminal case environments, legislative proposals may precede rule and form amendments. That project, the Rules Modernization Project, is led by the Information Technology Advisory Committee (ITAC) This committee will work with ITAC on developments appropriate for the California Rules of Court related to criminal procedure.</p> <p>(2) This comment is addressed to the proposal clarifying file transfer procedures. The committee agrees with the suggestion to clarify that only documents related to the transferring defendant must be transmitted to the receiving court and has added language to that effect in an advisory comment.</p> <p>3) This comment is addressed to the proposal clarifying file transfer procedures. The committee considered this comment, deleted the “two</p>

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Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>Subsection (g)(5) further states that if the case involves more than one defendant, the original file must be transmitted to the receiving court within two weeks. However, there is no specific timeframe within which the case must be transmitted if there is only one defendant. We recommend that the rule provide consistent language for either type of case transmittal.</p> <p>(4) Proposed new subsection (h) requires a receiving court to notify the transferring court when the supervised person’s conviction is reduced from a felony to a misdemeanor, or there is some other disposition of the supervised person’s case. Since legislation was approved by the voters of California in November 2014, many cases have had reductions of felony convictions to misdemeanors under Proposition 47. The legislation enacted pursuant to the Proposition, PC 1170.18, sunsets this provision in 2017 unless the court is provided a showing of good cause. Will there be a retroactive component of the notification requirement in cases where reductions of charges have already taken place, if practicable?</p> <p>Language should be added to subsection (h) which allows notification from one court to another, whether an action on the case was initiated at the transferring or receiving court. As to the notification component, if courts are required to undertake the retroactive updating of cases it will require a large commitment of</p>	<p>weeks” transfer period for co-defendant cases in subdivision (g)(5) and replaced it with a requirement that the file transfer occur “upon transfer” as required for single defendant cases in subdivision (g)(3).</p> <p>(4) The committee is not recommending the notification portion of the proposal. However, the committee may consider other means, including working with other advisory bodies, to develop a less burdensome method of ensuring that transferring court records accurately reflect when a case has been transferred.</p>

SPR16-12

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>resources. However, it does make sense to do this, particularly for Proposition 47 cases, in order to provide a consistent and accurate case record for this sizeable population.</p> <p>(5) Proposed new subsection (i) indicates that monies previously ordered and still owing at the time of the transfer will be paid by the defendant to the collection program for the transferring court unless an agreement exists that the receiving court will collect payment from the defendant. Since cases transferred pursuant to PC 1203.9 are typically on formal probation and mandatory supervision, any fines, fees, or other money ordered is collected through Orange County’s Probation Department, not the court’s Collections Department. Recommend adding clarifying language to support other entities that are collecting payments ordered by the court.</p> <p>The advisory committee also seeks comments from courts on the following cost and implementation matters:</p> <ul style="list-style-type: none"> •Would the proposal provide cost savings? If so please quantify. <p>(6) Response: No.</p> <ul style="list-style-type: none"> •What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of 	<p>(5) This comment is addressed to the proposal for rule compliance with Assembly Bill 673. Both this subdivision and Penal Code section 1203.9, as amended, allow for collection by either the court or the court’s collection program. The committee has added an advisory comment to this subdivision, clarifying that court collections programs may include county probation departments.</p> <p>(6) No response required.</p>

SPR16-12

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.</p> <p>(7) Response: Procedure changes, training of staff (minimal), docket code changes to update the court record for cases that are transferred and were ultimately reduced to misdemeanors or dismissed. Also creation of a form to notify transferring courts when the receiving court modifies the Felony record, and the creation of docket codes to capture the noticing process in the minutes.</p> <p>•Would 2 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation? (8) Response: 3 – 4 months</p> <p>•How well would this proposal work in courts of different sizes? (9) Response: Unknown, depends on their level of automation.</p>	<p>(7) The committee is not recommending the notification portion of the proposal. However, the committee may consider other means, including working with other advisory bodies, to develop a less burdensome method of ensuring that transferring court records accurately reflect when a case has been transferred.</p> <p>(8) The committee has considered this and, in the absence of a request for a longer implementation period from other courts, declines this suggestion.</p> <p>(9) No response required.</p>
2.	Orange County Bar Association By Todd Friedland	A		No response required.

SPR16-12

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
	President			
3.	Superior Court of California, Los Angeles	A	<p>This proposal is to (1) clarify file transfer requirements after intercounty transfer under Penal Code section 1203.9, (2) require receiving courts to notify transferring courts when the receiving court either reduces a felony to a misdemeanor or dismisses a case after transfer, and (3) make the rule consistent with Assembly Bill 673’s amendments to section 1203.9.</p> <p>(1) The first proposal clarifies that the entire original file must be transferred except exhibits, and recommends that the transferring court keep a copy for future writ purposes. When there are co-defendants, however, the transferring court should keep the original file and send certified copies. That is certainly more work and expense for the transferring court, we are not sure how common this would be.</p> <p>(2) The second proposal is that the receiving court advise the transferring court if a felony is reduced or a charge dismissed so that the transferring court’s docket reflects current accurate information, and helps to prevent incomplete information from affecting employment and benefit eligibility. This also would involve more work for both courts but again it is difficult to determine how often this happens.</p>	<p>(1) This comment is addressed to the proposal clarifying file transfer procedures. The committee acknowledges that this proposal may create more work but anticipates that the increased workload will not be significant.</p> <p>2) The committee is not recommending the notification portion of the proposal. However, the committee may consider other means, including working with other advisory bodies, to develop a less burdensome method of ensuring that transferring court records accurately reflect when a case has been transferred.</p>

SPR16-12

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			<p>(3) The third proposal merely makes conforming changes to the rules. We agree with modifications to status updates for transferred cases; agree in full that the transferring court should retain jurisdiction over the collection and disbursement of fines, forfeitures, penalties, assessments, and restitution ordered but not fully paid at the time of transfer.</p> <p>A uniform mechanism for notification of significant changes in case status to the transferring court by the receiving court should be instituted prior to implementation.</p>	
4.	Superior Court of California, County of San Diego by Mike Roddy Executive Officer	A	<p>(1) Q: Does the proposal appropriately address the stated purpose? Yes</p> <p>(2) Q: Would the proposal provide cost savings? No. It is anticipated that there may be an insignificant increase of use of staff time.</p> <p>(3) Q: What are implementations requirements for courts? Create a procedure for notifying other courts. Suggestion is for the receiving court to send a completed copy of the JUS 8715 to the sending court. It is also recommended that the responsibility of notifying the DOJ of subsequent actions fall on the receiving court.</p> <p>(4) Q: Would two months from JC approval of this proposal until its effective date provide sufficient time for implementation? Yes</p>	<p>(1) No response required.</p> <p>(2) No response required.</p> <p>(3) The committee is not recommending the notification portion of the proposal. However, the committee may consider other means, including working with other advisory bodies, to develop a less burdensome method of ensuring that transferring court records accurately reflect when a case has been transferred.</p> <p>(4) No response required.</p>

SPR16-12**Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (Amend rule 4.530)**

All comments are verbatim unless indicated by an asterisk (*)

	Commentator	Position	Comment	Committee Response
			(5) Q: How well would this proposal work in courts of different sizes? No issue in large or small courts.	(5) No response required.
5.	Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee Joint Rules Subcommittee	A	<p>General Note: This proposal should be implemented because it would provide better access to information for the public and justice partners.</p> <p>Regarding increases to court staff's workload: A small increase in court staff workload is anticipated, but this increase is only a minor concern.</p>	No response required.

RUPRO ACTION REQUEST FORM

RUPRO action requested: **Recommend JC approval (has circulated for comment)**

RUPRO Meeting: October 5, 2016

Title of proposal (*include amend/revise/adopt/approve + form/rule numbers*):

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges (Amend Cal. Rules of Court, rules 2.810 and 10.742)

Committee or other entity submitting the proposal:

Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee

Staff contact (name, phone and e-mail): Claudia Ortega, 415-865-7623, claudia.ortega@jud.ca.gov

Identify project(s) on the committee's annual agenda that is the basis for this item:

Approved by RUPRO: Approved by E&P on 01/25/16

Project description from annual agenda: Project 7: Seek Amendment of Rules 2.810 and 10.742 (Pertaining to the Requirement to Report on the Use of Court-Appointed Temporary Judges)

The TCPJAC and CEAC recommend (1) the amendment of rule 10.742, to eliminate that rule's reporting requirements concerning the use of court-appointed temporary judges and (2) the amendment of subdivision (d) of rule 2.810 to delete the related reference to this reporting requirement.

Rule 10.742 governs the use of attorneys as court-appointed temporary judges. Subdivision (c) of the rule requires each trial court that uses attorneys as temporary judges to report quarterly to the Judicial Council the number of attorneys used as temporary judges each month, the number and types of cases on which they were used, and whether any of the appointments were made under the exception in rule 2.810(d). This exception allows, in extraordinary circumstances, for appointment of an attorney as a temporary judge who has not met all of the requirements for such appointment.

TCPJAC and CEAC recommend these changes because the data that rule 10.742(c) requires the trial courts to report is in part duplicative of information collected and reported to the council in another report. Also, the data required by rule 10.742(c) is not used to establish the need for additional judicial positions. Thus, the quarterly reporting requirements of subdivision (c) place an unnecessary burden on the courts.

If requesting July 1 or out of cycle, explain:

Additional Information: (To facilitate RUPRO's review of your proposal, please include any relevant information not contained in the attached summary.)

This proposal was circulated for public comment from December 12, 2014, through January 23, 2015. Commissioners expressed opposition to eliminating the reporting requirement and some suggested that it only be reported on an annual basis instead of quarterly. Subsequently, RUPRO considered this proposal in April 2015. In light of the concerns raised by commissioners in the public comments, RUPRO referred the proposal back to TCPJAC and CEAC with a request that the TCPJAC and CEAC leadership meet with commissioner representatives to further discuss their concerns. In July 2016, Judge Brian L. McCabe (former Chair, TCPJAC) and Mr. Richard Feldstein (former Chair, CEAC) met with Commissioner David Gunn (Superior Court of Butte County) and Commissioner Rebecca Wightman (Superior Court of San Francisco County) to further discuss the concerns of the commissioners and attempt to find a mutual resolution. The concerns that were raised by the commissioner representatives during this discussion mirrored those contained in the public comments. After discussing the commissioners' concerns and the resource constraints of the trial courts, Judge McCabe and Mr. Feldstein concluded proceeding with the proposal was in the best interests of the trial courts. As stated in the attached report, the essential data on the use of temporary judges will still be collected and reported by the council.



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 27–28, 2016

Title	Agenda Item Type
Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rules 2.810 and 10.742	January 1, 2017
Recommended by	Contact
Trial Court Presiding Judges Advisory Committee	Claudia Ortega, 415-865-7623 claudia.ortega@jud.ca.gov
Hon. Jeffrey B. Barton, Chair	Katherine Sher, 415-865-8031 katherine.sher@jud.ca.gov
Court Executives Advisory Committee	
Mr. Jake Chatters, Chair	

Executive Summary

The Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executives Advisory Committee (CEAC) recommend amending (1) rule 10.742 of the California Rules of Court to eliminate that rule's reporting requirements concerning the use of court-appointed temporary judges, and (2) subdivision (d) of rule 2.810 to delete the related reference to this reporting requirement.

Rule 10.742 governs the use of attorneys as court-appointed temporary judges. Subdivision (c) of the rule requires each trial court that uses attorneys as temporary judges to report quarterly to the Judicial Council the number of attorneys used as temporary judges each month, the number and types of cases on which they were used, and whether any of the appointments were made under the exception in rule 2.810(d). This exception allows, in extraordinary circumstances, for

appointment of an attorney as a temporary judge who has not met all of the requirements for such appointment.

TCPJAC and CEAC recommend these changes because the information that rule 10.742(c) requires courts to report on is in part duplicative of information collected and reported to the council in another report, and thus the rule places an unnecessary burden on the courts.

Recommendation

The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee recommend that the Judicial Council, effective January 1, 2017, amend:

1. Rule 10.742 of the California Rules of Court to eliminate all reporting requirements concerning the use of court-appointed temporary judges; and
2. Rule 2.810, which addresses certain appointments made under extraordinary circumstances, to eliminate the reference to the reporting requirements in rule 10.742(c).

The text of the proposed amended rules is attached at pages 5–6.

Previous Council Action

The Judicial Council adopted rule 10.742 concerning the use of attorneys as court-appointed temporary judges and related rule 2.810(d) effective July 1, 2006, as part of the comprehensive set of rules on temporary judges. The rules were renumbered effective January 1, 2007.

Rationale for Recommendation

In June 2012, the Judicial Council’s Rules and Projects Committee (RUPRO) asked advisory committees to suggest changes to rules and forms that could result in cost savings or efficiencies for the courts. As part of that process, a trial court executive officer suggested that the reporting requirements in subdivision (c) of rule 10.742 be eliminated because neither the council nor trial courts utilize the data collected under this rule. In November 2012, RUPRO referred this proposal to TCPJAC and CEAC for future consideration and action.

Currently, subdivision (c) of rule 10.742 requires each trial court that uses attorneys as temporary judges to record and report to council staff the following information on a quarterly basis:

1. The number of attorneys used as temporary judges by that court each month;
2. The number and types of cases, and the amount of time, on which the temporary judges were used each month; and
3. Whether any of the appointments of temporary judges were made under the exception in rule 2.810(d) and, if so, the number of and reasons for these appointments.

The Advisory Committee Comment for subdivision (c) of rule 10.742 states that the regular reporting of the above-mentioned information assists the courts in monitoring and managing

their use of temporary judges and that the information is important for establishing the need for additional judicial positions. The members of both the TCPJAC and CEAC have reviewed the requirements of subdivision (c), and none have found that the quarterly reporting requirements of this rule have assisted their courts with monitoring and managing the use of temporary judges. In contrast, trial court leadership has conveyed that these reporting requirements do not assist the courts and, instead, require the courts to direct critical staff resources to this endeavor when they could be used on more essential tasks. Also, the web-based survey that was conducted under rule 10.742(c) was discontinued in early 2013 due to staff losses at the Judicial Council and a lack of data received from the courts. In short, the repeal of these reporting requirements would eliminate the courts' need to dedicate court staff to track information for each courtroom, compile that information, and prepare the mandated reports.

The council's Office of Court Research has also verified that the information required in subdivision (c) is not used to establish the need for additional judicial positions. The necessary data concerning the use of temporary judges (as well as part-time and nonauthorized commissioners and referees) is separately collected by the trial courts and reported to the council quarterly in the report titled *Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers*. Specifically, the Office of Court Research asks the trial courts to report, on a quarterly basis via an Excel spreadsheet, the total usage (in full-day increments) of temporary judges (judges pro tem), part-time commissioners, part-time referees, and part-time hearing officers. This report will continue to be produced if rule 10.742 is amended as proposed.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for public comment from December 12, 2014, through January 23, 2015. Ten comments were received (two from one individual). Four supported the change, three suggested modifications, and three disagreed with the proposal entirely.

One court commissioner who wrote in opposition to the proposed change commented that it is premature to eliminate the reporting requirement before the statistics compiled from the information reported have been distributed and any benefits from collecting the information assessed. The two comments received from a member of the public (both from the same person) took issue with the use of temporary judges in general, and did not specifically address the reporting requirement.

Three commentators suggested modification of the reporting requirement, rather than eliminating it entirely. One court commissioner noted that information on the use of temporary judges must be tracked for other purposes, and that this information may be important to foster transparency and assess the need for additional judicial officers. This commentator suggested that perhaps the burden of reporting could be reduced by asking for less detailed information and requiring reporting annually rather than quarterly. A superior court judge similarly noted that information on the use of temporary judges is already collected and is useful for workload assessments, and also suggested reducing the reporting requirement to an annual report. The California Court

Commissioners Association also suggested that reducing the requirement to an annual report on the number and use of temporary judges could reduce the burden on trial court staff while making sure information is available for assessment of judicial officer needs.

As mentioned above, information on the number of days of temporary judge time for each trial court is collected for the quarterly *Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers* report, which is submitted to the council separately from the data required by rule 10.742. The TCPJAC and CEAC, in considering this alternative, have concluded that reducing the reporting requirement to an annual report, although it would reduce the burden on trial court staff, would still leave staff collecting duplicative and unnecessary data. The elimination of the reporting requirement is preferable, as the essential data on the use of temporary judges will still be collected and reported without the necessity for duplicative reporting. Additionally, the elimination of the reporting requirement under rule 10.742 would not preclude the trial courts from producing their own reports concerning the usage of temporary judges whenever they have a need to do so.

The TCPJAC and CEAC recommended this proposal at a RUPRO meeting on April 16, 2015. In light of the concerns raised by commissioners in the public comments, RUPRO referred the proposal back to TCPJAC and CEAC with a request to meet with commissioner representatives to further discuss their concerns. In July 2016, Judge Brian L. McCabe (former chair, TCPJAC) and Mr. Richard Feldstein (former chair, CEAC) met with Commissioner David Gunn (Superior Court of Butte County) and Commissioner Rebecca Wightman (Superior Court of San Francisco County) to further discuss the concerns of the commissioners and attempt to find a mutual resolution. The concerns that were raised by the commissioner representatives during this discussion mirrored those contained in the public comments. After discussing the commissioners' concerns and the resource constraints of the trial courts, Judge McCabe and Mr. Feldstein concluded that proceeding with the proposal as previously submitted to RUPRO was in the best interests of the trial courts because the process of reporting on their use of temporary judges was time-consuming and the essential data concerning temporary judge usage is still collected and reported by the council.

Implementation Requirements, Costs, and Operational Impacts

The amendment of rules 2.810 and 10.742 would result in cost savings to the trial courts because they would be able to direct staff resources to more necessary functions. Implementation requirements and negative operational impacts are unlikely as a result of amendment of these rules.

Attachments and Links

1. Cal. Rules of Court, rules 2.810 and 10.742, at pages 5–6
2. Chart of comments, at pages 7–20

Rules 2.810 and 10.742 of the California Rules of Court are amended, effective January 1, 2017, to read:

1 **Rule 2.810. Temporary judges appointed by the trial courts**

2
3 (a)–(c) * * *

4
5 **(d) Exception for extraordinary circumstances**

6
7 A presiding judge may appoint an attorney who is qualified under rule 2.812(a), but who
8 has not satisfied the other requirements of that rule, only in case of extraordinary
9 circumstances. Any appointment under this subdivision based on extraordinary
10 circumstances must be made before the attorney serves as a temporary judge, ~~must be~~
11 ~~recorded for reporting purposes under rule 10.742(e)(3)~~, and must not last more than 10
12 court days in a three-year period.
13

14 **Rule 10.742. Use of attorneys as court-appointed temporary judges**

15
16 (a)–(b) * * *

17
18 **(e) Record and report of uses**

19 ~~Each trial court that uses attorneys as temporary judges must record and report to the~~
20 ~~Administrative Office of the Courts on a quarterly basis information concerning its use of~~
21 ~~them. The report must state:~~

- 22 (1) ~~The number of attorneys used as temporary judges by that court each month;~~
23 (2) ~~The number and types of cases, and the amount of time, on which the temporary~~
24 ~~judges were used each month; and~~
25 (3) ~~Whether any of the appointments of temporary judges were made under the~~
26 ~~exception in rule 2.810(d) and, if so, the number of and reasons for these~~
27 ~~appointments.~~
28

29 **Advisory Committee Comment**

30
31 **Subdivisions (a)–(b).** These subdivisions provide that the presiding judge in each court is responsible for
32 determining whether court-appointed temporary judges need to be used in that court, and these
33 subdivisions furnish the criteria for determining when their use is proper. Under (b)(1), the use and
34 appointment of court-appointed temporary judges must be based on judicial needs. Under (b)(3), an
35 attorney serving as a temporary judge would have a conflict of interest if the disqualifying factors in the
36 Code of Judicial Ethics exist. Under (b)(4), the test for the appearance of impropriety is whether a person
37 aware of the facts might entertain a doubt that the judge would be able to act with integrity, impartiality,
38 and competence. In addition to the disqualifying factors listed in the Code of Judicial Ethics, an

1 appearance of impropriety would be generated if any of the limitations in family law, unlawful detainer,
2 and other cases identified in the Code of Judicial Ethics are present.

3

4 ~~**Subdivision (c).** Regular recording and reporting of information concerning each court's use of~~
5 ~~temporary judges assists the courts in monitoring and managing their use of temporary judges. This~~
6 ~~information is also important for establishing the need for additional judicial positions.~~

7

W15-06

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	California Court Commissioners Association By Jeri M. Hamlin President	AM	<p>CCCA is concerned with the proposal, due to the fact that no reasonable alternatives were considered to reduce the burden on trial courts for the reporting of information that clearly should be utilized and evaluated in assessing judicial officer needs in the judicial branch.</p> <p>Trial courts are already required to keep track of names and training requirements of JPTs, and logistically have to track scheduling/assignments of JPTs within their respective courts, so the information is there.</p> <p>Reducing the reporting requirement to an annual reporting of the number and use of JPTs, <i>and making sure that information is utilized in future assessments</i>, would better serve the branch as a whole.</p>	<p>The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges. This information is tracked by the courts for other purposes and they would still be able to produce their own reports whenever necessary. Nor will it end the reporting of necessary data on the use of temporary judges to the Judicial Council. The total usage (in full-day increments) of temporary judges (judges pro tem), part-time commissioners, part-time referees, and part-time hearing officers will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i>. Thus even if the reporting requirements under rule</p>

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
				10.742 were streamlined and the data was required only once a year, the work involved would be in part duplicative of work otherwise being done.
2.	Charmaine Leorna Orangevale, CA	N	There is a shortage of Judges...the problem is the Judge and Attorney World is a very small world and the PRO TEM judges are mainly practicing attorneys for Profits and they are deciding the cases based on friendships, BIAS, and what is not a fair and Judicial process. Instead they accept payoffs for deciding cases in a biased manner and should not sit in a PRO TEM position knowing the cases via other Law Firms and though "friendships" the system is SICK and VERY flawed. I can guarantee that it is sick and actually costs the "PEOPLE" pain suffering and presents a FALSE portrayal of "justice" and actually makes more money for attorneys and PRO TEM Judges. There will be NO MONETARY burden if the change is handled correctly...Peter principle tactics created by greedy attorneys in an EXTREMELY WEALTHY STATE!	This comment is directed at perceived problems with the use of attorneys as temporary judges. The proposed change does not affect the requirements applicable when attorneys are appointed as temporary judges, but only eliminates the requirement for quarterly reporting of such appointments to the Judicial Council.

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

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	Commentator	Position	Comment	Committee Response
3.	Charmaine Leorna Orangevale, CA	N	<p>I have submitted a short comment on the other link...I may still be able to write some expansion on REPORTING ON USE OF ATTORNEYS AS COURT-APPOINTED TEMPORARY JUDGES. I am so BURDENED by court filings and answers that I cannot make a correct full accounted and substantiated objective comment for "THE PEOPLE".</p> <p>#1. I just happen to stumble upon this "AMENDMENT" I will guarantee the Judicial Council that this will come back to bite....</p> <p>#2. Do not fool yourself into thinking it will save money....It NEVER worked to begin with and whatever modifications are made, are made to support JUDGES/ATTORNEYS/POLITICIANS/CALBAR and people like you who are paid to support and modify for the sake of padding pockets of the tight circle of unjust "lawmakers/liars" of the Golden State of California. This is not designed for "PEOPLE" like me to comment on. I can guarantee you Ms. Ortega PRO TEM is a sick and EVIL SCAM. There will soon come a day when I will prove</p>	<p>This comment is directed at perceived problems with the use of attorneys as temporary judges. The proposed change does not affect the requirements applicable when attorneys are appointed as temporary judges, but only eliminates the requirement for quarterly reporting of such appointments to the Judicial Council.</p>

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			the “SCAM” beyond a reasonable doubt in several Superior Court “BRANCHES”. Best Wishes with whatever it is you believe you are accomplishing, Ms. Ortega and Ms. Sher. Perhaps it is in some obscure low populated county that ultimately it does not matter....FRESNO maybe?	
4.	Superior Court of Los Angeles County Los Angeles, CA	AM	The proposal appropriately addresses the stated purpose and we support these amendments to CRC, Rules 2.810 and 10.742 unequivocally. These reporting requirements have required the utilization of precious staff resources throughout the LASC that could be expended in more essential court functions. An amendment to Subdivision (c) of Rule 10.742 would provide savings to the LASC by eliminating the court’s need to dedicate staff to the time-consuming collection of data and compilation of these reports. The LASC’s dedication to the administration of its rules compliant Temporary Judge Program will continue and we welcome this modest change to the current requirements.	The commentator’s support for the proposal is noted. Note: Although the response form is marked “Agree with proposed changes only if modified,” it is clear from the text of the comment that the Superior Court of Los Angeles County supports the proposal without modification and, in its own words, “unequivocally.”

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
5.	Superior Court of Marin County By Kim Turner, CEO Marin, CA	A	I strongly agree that this requirement should be repealed. It creates unnecessary workload for the courts and appears to serve no real purpose.	The commentator's support for the proposal is noted.
6.	Philip Pimentel Court Commissioner Hughson, CA	N	I have reviewed the pertinent provisions of Rules 10.742 (c) and 2.810 (d). I also reviewed the comments made at the time of the enactment of these two provisions. The stated purposes and benefits of the Rules cannot be assessed accurately without seeing the statistics compiled consistent with these Rules. I would request the proposal to eliminate these reporting provisions be tabled until such time as the statistics can be distributed for further comment. Thank you.	The committees appreciate the concern that the use of temporary judges continues to be tracked and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges. This information is tracked by the courts for other purposes and they would still be able to produce their own reports whenever necessary. Nor will it end the reporting of necessary data on the use of temporary judges to the Judicial Council. The total usage (in full-day increments) of temporary judges (judges pro tem), part-time commissioners, part-time referees, and part-time hearing officers will continue to be reported to the council as part of the quarterly

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
				report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i> . Thus even if the reporting requirements under rule 10.742 were streamlined and the data was required only once a year, the work involved would be in part duplicative of work otherwise being done.
7.	Superior Court of Riverside County By Marita Ford Senior Management Analyst Riverside, CA	A	No specific comment.	No specific response required.
8.	Superior Court of San Diego County By Mike Roddy, CEO San Diego, CA	A	No specific comment.	No specific response required.
9.	Rebecca Wightman Commissioner of the Superior Court of the County of San Francisco San Francisco, CA	AM	Thank you for the opportunity to comment. I disagree with the proposal as submitted, but agree that a <i>modified proposal</i> should go forward that both (1) lessens any burden on trial courts, and (2) preserves important information that can and should be used in both assessing judicial needs of the courts, as well as maintaining quality access to the	The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>courts, and preserving the public’s trust and confidence in the courts.</p> <p>The purpose of having a system where presiding judges may appoint experienced attorneys (aka Judge Pro Tems or JPTs) is set forth in Rule 2.811: “The purpose of court appointment of attorneys as temporary judges is to assist the public by providing the court with a panel of trained, qualified, and experienced attorneys who may serve as temporary judges at the discretion of the court if the court needs judicial assistance that it cannot provide using its full-time judicial officers.” [Emphasis added]</p> <p>1. Query: If trial courts are consistently utilizing JPTs to the tune of being the equivalent of many FTEs (full-time equivalent) in judicial service, isn’t that information important in terms of the judicial needs of the trial courts? The information of the extent and use of JPTs is no less important than it was when the system of use of JPTs was put in place.</p> <p>2. The fact that the information that has been reported to date has not been used does <u>not</u> automatically mean the information is not useful or that keeping or</p>	<p>use of temporary judges. This information is tracked by the courts for other purposes and they would still be able to produce their own reports whenever necessary. Nor will it end the reporting of necessary data on the use of temporary judges to the Judicial Council. The total usage (in full-day increments) of temporary judges (judges pro tem), part-time commissioners, part-time referees, and part-time hearing officers will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i>. Thus even if the reporting requirements under rule 10.742 were streamlined and the data was required only once a year, the work involved would be in part duplicative of work otherwise being done.</p>

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>reporting such information should be <i>eliminated</i>; rather, that fact begs the following questions:</p> <p>A. WHY hasn't this information been used? This should be investigated prior to the complete elimination as proposed. Is it possible it was not brought to the attention of other individuals working on reports (mandated or otherwise) where such information could indeed be useful? The information on the use and extent of use of JPTs <i>should</i> be used to help determine the judicial needs of the courts, as well as preserve the integrity of the courts.</p> <p>Chronic use of JPTs -- especially if concentrated in particular areas/case types – can be an indication of not only of a persistent judicial need, but also negatively impact the public's perception of the courts, as well as the public's access to a proper compliment of qualified elected or appointed judicial officers (vs. a panel of attorneys who have simply received demeanor training and 3 hours of substantive training).</p> <p>B. Has anyone analyzed the reported information, and reported to the Judicial</p>	

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Council as to its usefulness (or otherwise)? It is <i>premature</i> to simply eliminate the reporting of such information – which a prior Advisory Committee comment found would be “important for establishing the need for additional judicial positions” – if the information has not been meaningfully analyzed to understand its usefulness and/or importance. This analysis should be done prior to any complete elimination as proposed.</p> <p>3. Recordkeeping in and of itself is a chore; however, trial courts are already required to keep track of information regarding JPTs, and certainly must keep track within their own courts of when judges, SJOs or certain Depts. or calendars need to be covered and whether such coverage will be provided by a JPT (given the need to schedule JPTs for coverage, post calendars, etc.). In this day and age of communication, information recording, excel, scheduling systems, etc., it cannot be that difficult to keep track of the extent and use of JPTs, such that an annual report or other type of report could not be generated fairly easily for reporting. [Currently, courts must track</p>	

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>applications, training (Rule 2.812), and many have a designated individual to track and manage the use of Temporary Judges under Rule 10.743, including 10.743(10) to assist in identifying judicial needs that require use of JPTs and addressing those needs. Again, by necessity, there has to be a system of scheduling for the use of JPTs, so the information is already there. Some courts even put their information online.] There is insufficient evidence that elimination of the reporting requirement would provide any great cost savings to the courts give the above. Rather than <i>eliminating</i> the requirement, ways should be explored to make it easier to track and report on a less frequent basis.</p> <p>4. Viable alternatives were not considered in this proposal. The “alternative” listed in the Invitation to Comment document was a non-alternative (“The committee considered not recommending the repeal...”). If the current quarterly reporting requirement is burdensome, then why aren’t other, less burdensome, alternatives considered – such as reporting on a less frequent basis (e.g.</p>	

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Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>annually), and considering reporting less detailed information (enabling a simple report to be generated on numbers of JPTs, areas of service, and half/whole days of service vs. actual time, or any other simpler pieces of information already kept by trial courts)?</p> <p>5. Without adequate tracking of information on the use of JPTs, by eliminating the reporting requirement altogether, the Judicial Council and the trial courts are not fostering transparency, cannot fully assess the true judicial needs of the branch, and will lose information that may help in understanding the public’s trust and confidence in the courts. It should be noted that since courts have been closing courtrooms and cutting staff, the use of JPTs have increased; in other courts, JPTs were already heavily used. (See, e.g. the Business Journal article in 2012 in Fresno which stated that “[w]ith larger caseloads following the recent closure of seven rural branch courts, the Fresno Superior Court is now seeking to expand its temporary judge program.” Also, a recent article in one of</p>	

W15-06

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
Amend Cal. Rules of Court, rules 2.810 and 10.742

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	Commentator	Position	Comment	Committee Response
			<p>the legal journals in 2014 reported on the uptick in the use of JPTs across the state, and noted some of the associated complaints.</p> <p>6. Bottom Line: The Judicial Council (and trial courts themselves) should be keeping track of this information, and it should be reported on an annual basis. The information should be used to inform the courts and the Judicial Council in the efficient administration of justice and access to the courts.</p> <p>Thank you very much for the opportunity to comment. This is my individual comment, and not on behalf of anyone or any organization.</p>	

W15-06

Temporary Judges: Reporting on Use of Attorneys as Court-Appointed Temporary Judges
 Amend Cal. Rules of Court, rules 2.810 and 10.742

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
10.	Hon. Monica F. Wiley Judge of the San Francisco Superior Court San Francisco, CA	AM	I strongly urge the committee to continue to formally track the use of Judge Pro Tems (JPTs) by the Courts in the State of California. This tracking requirement is necessary to ensure consistency within our courts and to maintain transparency in our justice system. Courts in this State are already required to maintain a list of the names and training of JPTs and also have available daily calendars for scheduling and assignment of JPTs within their courts. As a result, this information is already being gathered and maintaining the reporting requirement does not place an undue burden on the court system. Reducing the reporting requirement to an annual report would ensure that this information is utilized in future Judicial Council workload assessments and continue to greatly benefit our court system.	The committees appreciate the concern that the use of temporary judges continues to be tracked, and used to assess judicial officer needs. The elimination of the reporting requirement under rule 10.742, however, will not end the collection of information on the use of temporary judges. This information is tracked by the courts for other purposes and they would still be able to produce their own reports whenever necessary. Nor will it end the reporting of necessary data on the use of temporary judges to the Judicial Council. The total usage (in full-day increments) of temporary judges (judges pro tem), part-time commissioners, part-time referees, and part-time hearing officers will continue to be reported to the council as part of the quarterly report titled <i>Use of Temporary Judges, Part-time Commissioners, Part-time Referees, and Part-time Hearing Officers</i> . Thus even if the

W15-06

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	Commentator	Position	Comment	Committee Response
				reporting requirements under rule 10.742 were streamlined and the data was required only once a year, the work involved would be in part duplicative of work otherwise being done.

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JUDICIAL COUNCIL OF CALIFORNIA

RULES AND PROJECTS
COMMITTEE

www.courts.ca.gov/rupromeetings.htm
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RULES AND PROJECTS COMMITTEE

MINUTES OF OPEN MEETING

September 7, 2016

12:10 PM

Teleconference

Advisory Body Members Present: Hon. Harry E. Hull, Jr., Chair; Hon. Brian J. Back, Vice-chair; Mr. Jake Chatters; Hon. Scott M. Gordon; Mr. Patrick M. Kelly; Hon. Dalila C. Lyons; Hon. Brian L. McCabe; and Ms. Debra Pole.

Advisory Body Members Absent: Hon. Stacy Boulware Eurie; Ms. Kimberly Flener; and Hon. Eric C. Taylor.

Others Present: Ms. Heather Anderson; Ms. Kim DaSilva; Ms. Audrey Fancy; Ms. Nicole Giacinti; Ms. Diana Glick; Mr. Bruce Greenlee; Mr. Jay Harrell; Ms. Frances Ho; Ms. Bonnie Hough; Ms. Tracy Kenny; Ms. Camilla Kieliger; Ms. Tara Lundstrom; Ms. Anna Maves; Ms. Susan McMullan; Mr. Douglas C. Miller; Mr. Patrick O'Donnell; Mr. Gary Richardson; Ms. Kathy Sher; Hon. Peter Siggins; Mr Gary Slossberg; Ms. Christy Simons; Mr. Corby Sturges; and Ms. Adrienne Toomey

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:10 PM, and took roll call.

PROBATE

Item 01

Probate Conservatorship Forms: Adoption of Notice of Conservatee's Death (adopt form GC-399) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 02

Probate: Decedent Estate Proceedings and a Substitute for Those Proceedings (revise forms DE-111 and DE-310) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

FAMILY

Item 03

Child Support: Statutory Relief for Incarcerated/Involuntarily Institutionalized Obligor (revise forms FL-342, FL-350, FL-490, FL-530, FL-615, FL-625, FL-630, FL-665, FL-676, FL-676-INFO, FL-687, FL-688, and FL-692) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 04

Family Law: Child Support and Uniform Interstate Family Support Act (amend rule 5.324; adopt forms FL-590(A), FL-592, and FL-594; revise forms FL-510, FL-520, FL-560, FL-570, FL-575; revoke forms FL-511 and FL-515) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

JUVENILE

Item 05

Juvenile Law: Termination of Jurisdiction Over Nonminor (amend rule 5.555; revise forms JV-365 and JV-367) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 06

Juvenile Law: Dependency Hearings (amend rules 5.534, 5.668, 5.670, 5.674, 5.682, 5.684, 5.690, 5.695, 5.706, 5.708, 5.710, 5.715, 5.720, 5.722, 5.725, 5.726, 5.727, 5.728, 5.730, 5.735, 5.740; repeal rules 5.680, 5.686 and 5.688, and revise form JV-421) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 07

Juvenile Law: Intercounty Transfer (adopt rule 5.613; amend rules 5.610 and 5.612; adopt forms JV-548 and JV-552; revise form JV-550) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 08

The advisory committee withdrew the proposal.

Item 09

Juvenile Law: Court Orders (amend Cal. Rules of Court, rule 5.504) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 10

Protective Orders: Requests for the Possession and Protection of Animals (revise forms CH-100, CH-110, CH-120, CH-130, EA-100, EA-120, EA-110, EA-130, JV-245, JV-250, and JV-255) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 11

Technical Amendments to Forms GV-116, SV-110, SV-130, WV-110, WV-130 (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

TECHNOLOGY

Item 12

Technology: Modernization of the Rules of Court (Phase II of the Rules Modernization Project) (amend rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392.) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 13

Technology: Modernization of the Appellate Rules of Court (Phase II of the Rules Modernization Project) (amend rules 8.104, 8.130, 8.144, 8.150, 8.336, 8.409, 8.416, 8.450, 8.452, 8.454, 8.456, 8.480, 8.482, 8.489, 8.619, 8.625, 8.834, 8.866, 8.919, 8.1007, and 10.1028); revise

forms APP-002, APP-003, APP-004, APP-005, APP-006, APP-007, APP-008, APP-009, APP-009-INFO, APP-010, APP-011, APP-012, APP-101-INFO, APP-102, APP-103, APP-104, APP-106, APP-107, APP-109, APP-109-INFO, APP-110, APP-150-INFO, APP-151, CR-120, CR-126, CR-132, CR-133, CR-134, CR-135, CR-137, CR-141-INFO, CR-142, CR-143, CR-145, JV-810, JV-816, JV-817, JV-822, JV-825, and MC-275; and approve forms APP-009E and APP-109E) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

CIVIL

Item 14

Small Claims: Plaintiff's Claim and Information Forms (revise forms SC-100, SC-100-INFO and SC-100A) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 15

Civil Practice and Procedure: Order of Examination (revise forms SC-134 and EJ-125) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 16

Civil Forms: Declarations of Demurring Party Regarding Meet and Confer (approve forms CIV-140 and CIV-141) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017. RUPRO also directed the Civil and Small Claims Advisory Committee to gather information from courts about their experiences with form CIV-140 and whether the courts received sufficient information from demurring parties about whether the parties engaged in meaningful meet-and-confer sessions and to report back to RUPRO within a year.

APPELLATE

Item 17

Appellate Procedure: Privacy in Appellate Opinions (adopt rules 1.201, 8.41, 8.90; amend rule 1.20; revise form MC-120) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 18

Appellate Procedure: Juvenile Proceedings (amend rules 8.400 and 8.407) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 19

Appellate Procedure: Transcripts of Marsden Hearings (amend advisory committee comment to rule 8.45) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 20

Appellate Procedure: Amicus Curiae Briefs in Writ Proceedings (amend Cal. Rules of Court, rule 8.487) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 21

Appellate Procedure: E-filing Rules (amend rules 8.71, 8.72, 8.73, 8.74, 8.75, 8.76, 8.77, 8.78, 8.79 and 8.204) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

CRIMINAL

Item 22

Criminal Procedure: Intercounty Probation and Mandatory Supervision Transfer (amend rule 4.530) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 23

Criminal Law: Criminal Realignment and Military Service (amend rules 4.403, 4.405, 4.406, 4.409, 4.410, 4.411.5, 4.412, 4.414, 4.415, 4.420, 4.421, 4.423, 4.425, 4.427, 4.431, 4.433, 4.435, 4.452, 4.472, and 4.480) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 24

Criminal Procedure: Petition and Order for Dismissal—Deferred Entry of Judgment (revise forms CR-180 and CR-181) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

TRAFFIC

Item 25

The advisory committee deferred the proposal.

Item 26

The advisory committee deferred the proposal.

Item 27

The advisory committee deferred the proposal.

MISCELLANEOUS

Item 28

Technical Amendments (amend rule 8.200; and revise forms CR-160, CR-161, DV-101, and EPO-002) (Action required – recommend for Judicial Council action)

Action: The Rules and Projects Committee recommended approval on the Judicial Council's October 28, 2016, consent agenda for an effective date of January 1, 2017.

Item 29

Minutes (Action required)

Action: The Rules and Projects Committee approved the minutes.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 2:00 p.m.

Approved by the advisory body on enter date.