

Invitation to Comment

Title	Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators (amend rules 7.1012 and 7.1062 of the California Rules of Court; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-113; and adopt forms GC-115 and GC-141).
Summary	The Probate and Mental Health Advisory Committee proposes (1) amendment of rules 7.1012 and 7.1062 of the California Rules of Court to modify the showing required to apply for the court’s waiver of notice of the hearing on a petition for appointment of a temporary guardian or conservator, (2) approval of optional forms for this application, (3) creation of separate forms for temporary guardianship and temporary conservatorship petitions, and (4) revision of the optional <i>Petition for Appointment of Temporary Guardianship of the Person</i> (form GC-110(P)) to implement recent changes in the law governing temporary guardianships and temporary conservatorships.
Source	Probate and Mental Health Advisory Committee Hon. Don Edward Green, Chair
Staff	Douglas C. Miller 415.865.7535; douglas.miller@jud.ca.gov
Discussion	The Omnibus Conservatorship and Guardianship Reform Act of 2006 (Omnibus Act) fundamentally changed the procedure for appointment of temporary guardians or conservators by requiring a hearing on the temporary petitions on five-days’ notice to the proposed ward (if he or she is at least twelve years of age) and others, or the proposed conservatee and others. ¹ Section 2250(e) authorizes the court to dispense with or modify the required notice for good cause. Section

¹ The Omnibus Act consists of four bills, enacted together as Stats. 2006, ch. 490–493 (respectively, Sen. Bills 1116, 1550, and 1716 and Assem. Bill 1363). The changes concerning temporary guardianships and conservatorships include an amendment of Probate Code section 2250(c) to require a noticed hearing on a temporary guardianship or conservatorship, and enactment of Probate Code section 2250.4, prescribing the proposed conservatee’s attendance at the hearing and listing authorized excuses for his or her absence. See Stats. 2006, ch. 493 (AB 1363), §§ 15, 16. Section 2250(c) as amended by the Omnibus Act was redesignated as section 2250(e) by legislation enacted in 2007, effective January 1, 2008 (Stats. 2007, ch. 553 (Assem. Bill 1727), § 12). All references to code sections in this Invitation to Comment are to the Probate Code.

2250(k), added by the Omnibus Act, required the Judicial Council, on or before January 1, 2008, to adopt a rule of court establishing uniform standards for the good cause exception to the notice required by section 2250(e).

Rules 7.1012 and 7.1062

In response to section 2250(k), the council adopted rule 7.1012 for temporary guardianships and rule 7.1062 for temporary conservatorships, effective January 1, 2008. These rules contain provisions prescribing the contents of requests for good cause exceptions to notice. (See rules 7.1012(e) and 7.1062(e).) These provisions require a showing separate from the temporary guardianship or conservatorship petition and a memorandum of points and authorities. The request described in sections 7.1012(e) and 7.1062(e) is modeled after the request for ex parte relief described for civil litigation in rule 3.1201.

The advisory committee proposes the following changes to rules 7.1012(e) and 7.1062(e):

1. Rule 7.1012(e) would be amended to permit petitioners using the optional plain-language *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P)) to include their request for a good cause exception to notice in their petition.

Form GC-110(P) contains an application for waiver of notice of the application for appointment of a temporary guardian under section 2250 as it read before the Omnibus Act and the 2007 amendments, and before the effective date of rule 7.1012.² The advisory committee understands that most users of this form are self-represented. These petitioners could have considerable difficulty preparing an application for relief from the notice requirement following the strict format required of counsel for parties seeking ex parte relief in contested civil litigation. This issue became clear to the committee as it developed and considered proposing the new Judicial Council forms for the application, discussed below.

² See item 9b on page 3 of the current form.

Moreover, most temporary guardianships of the person in which relief from the notice requirements are appropriate present relatively straightforward and commonly encountered factual situations.³ A complex application and detailed supporting declarations from persons other than the petitioning proposed temporary guardian would usually be unnecessary.

2. Rules 7.1012(e) and 7.1062(e) would be amended to eliminate the requirement of points and authorities.

The advisory committee believes that applications for exceptions to the notice requirements of Probate Code section 2250(e) and rules 7.1012 and 7.1062 will be fact-specific, directed at the sound discretion of the court well aware of its authority to act in the matter. Legal authority for the exception under the statute and the new rules of court is clear without a mandatory memorandum of points and authorities. The emphasis should be on the factual showing in support of the application, not citation of legal authorities and written legal argument. Nothing in the amended rules would prevent a petitioner from filing a memorandum of points and authorities in a particularly complex case if desired.

Forms GC-112, GC-112(A-1), GC-112(A-2), GC-113, and GC-115
The advisory committee proposes the following new set of optional forms for the application for an exception to notice described in rule 7.1062(e) for temporary conservatorships:

Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator
(form GC-112)

This form would contain the basic information supporting the application in items 2–5, derived from the provisions of rule 7.1062. The form also includes instructions that describe the basic notice

³ Many guardianships of the person involve a situation where the emergency situation requiring waiver of notice of a temporary guardianship petition is the fact that one of the child's parents, formerly absent from the child's daily life with the proposed guardian under an informal custody arrangement, has returned and might flee with the child if he or she is given notice of the petition for appointment of a temporary guardian.

requirement of Probate Code section 2250(e) and identify the good cause exceptions to this requirement.

Declaration in Support of Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator (form GC-112(A-1) and *Declaration Continuation Page* (form GC-112(A-2))

These forms are proposed for the supporting declaration that must be filed with the application under rule 7.1062(e)(2). Form GC-112(A-1) would be the first page of each declaration, form GC-112(A-2) the second and subsequent pages. A check box is placed in the latter form just above the signature line, to be used to indicate that at least one additional page of the declaration follows.

Form GC-112(A-1) contains a statement in the first numbered paragraph that the declarant has personal knowledge of the facts stated in the declaration. This statement conforms to the requirement of rule 7.1062(e)(2) that a declaration in support of an application for an exception to notice must contain competent testimony based on personal knowledge.⁴

Declaration Concerning Notice of Ex Parte Application (form GC-113)

This form is for the declaration required by rule 7.1062(e)(3), a declaration that advises of the notice given of the application for an exception to notice of the hearing on the temporary conservator appointment or the reasons why notice of the application could or should not be given. The requirements for this declaration are based on the declaration regarding notice required for ex parte applications in civil cases by rule 3.1204.

Order on Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator (form GC-115)

⁴ An expert witness may provide competent evidence not based on personal knowledge. (See Evidence Code section 804.) Paragraph 2 of form GC-112(A-1) should be selected when the declarant is an expert witness.

Rule 7.1062(e) requires a proposed order to be submitted with an application for an exception to notice under the rule. Form GC-115 is proposed for this order.

Item 1 of the form calls for identification of the persons present at the hearing. The persons listed are those entitled to notice under section 2250(e).⁵ Items 4–6 of the form specify the standards for the good cause exception to notice provided in rule 7.1062.

The advisory committee considered drafting the application forms for use in both guardianships and conservatorships. It elected to create separate forms for conservatorships because of its belief that most temporary guardianships will be in person-only guardianship proceedings. Most of these petitioners are expected to use the plain-language temporary guardianship petition, form GC-110(P). As noted above and below, this form includes an application for an exception to notice. The committee asks for comments concerning the need for a set of forms for an application to be used by a petitioner in a temporary guardianship of the estate or the person and estate, where form GC-110(P) cannot be used.⁶

The advisory committee requests comments on whether this proposed order, or a version of it, should be prepared as an attachment to the proposed *Order Appointing Temporary Conservator* (form GC-141), discussed below. The committee understands that the appointment order could be signed on the same date as this order if a complete waiver of notice is granted, but the two orders would likely be signed on different dates if the court grants only a partial waiver of notice.

⁵ The Public Guardian is listed in the proposed order because that officer is entitled to notice of the hearing on a petition for appointment of a temporary conservator when the petitioner and the proposed conservator have no prior relationship with the conservatee and the conservator has not been nominated by a family member, friend, or other person with a relationship to the conservatee. (See Probate Code section 2250(e), as amended by Stats. 2007, ch. 553 (Assem. Bill 1727), § 12.)

⁶ A petitioner for a temporary guardianship of the estate or the person and estate of a minor must use the standard style form *Petition for Appointment of Temporary Guardian or Conservator* (form GC-110). (See rule 7.101(c).) This form is currently proposed for an amendment, effective July 1, 2008, that would restate the petition exclusively as a guardianship form. A new temporary conservatorship petition, designated as form GC-111, is also proposed for approval effective on that date.

Form GC-110(P)

Item 9b of the *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P)) would be modified to provide more space for the petitioner's statement of reasons supporting a request for a good cause exception to giving notice of the hearing on the petition. The instructions now on page 3 of the form would be moved to a new page 4 and revised to reflect the above-discussed changes in the temporary conservatorship notice requirements made by the Omnibus Act and Assembly Bill 1727 in the 2007 Legislature.

Forms GC-140 and GC-141

The advisory committee proposes to amend the *Order Appointing Temporary Guardian or Conservator* (form GC-140) by removing all references to temporary conservatorships and placing the conservatorship material in a new form, *Order Appointing Temporary Conservator* to be designated as form GC-141. Item 2 of the new form GC-141, containing a finding that notice of the hearing has either been or should be dispensed with, would be modified by deleting the latter option. The proposed new *Order on Ex Parte Application for Good Cause Exception to Notice on Petition for Appointment of Temporary Conservator* (form GC-115) would contain the order dispensing with notice of the hearing on the temporary conservatorship and supporting findings. Item 2 of the new form GC-141 would identify this order and call for its date.

Attached at pages 7–8 is the text of amended rules 7.1012 and 7.1062.

Attached beginning at page 9 are copies of proposed revised or new forms GC-112, GC-112(A-1), GC-112(A-2), GC-113, GC-115, GC-110(P), GC-140, and GC-141.

Attachments

Rule Proposal

Rules 7.1012 and 7.1062 of the California Rules of Court would be amended, effective January 1, 2009, to read:

1 **Rule 7.1012. The good cause exception to notice of the hearing on a petition**
2 **for appointment of a temporary guardian**

3
4 (a)—(d) * * *

5
6 (e) **Contents of request for good cause exception to notice**

7
8 (1) When the temporary guardianship petition is prepared on the *Petition*
9 *for Appointment of Temporary Guardian* (form GC-110), a request for
10 a good cause exception to the notice requirement of section 2250(e)
11 must be in writing, separate from the petition for appointment of a
12 temporary guardian, and must include:

13
14 (A) An application containing the case caption and stating the relief
15 requested;

16
17 (B) An affirmative factual showing in support of the application in a
18 declaration under penalty of perjury containing competent
19 testimony based on personal knowledge;

20
21 (C) A declaration under penalty of perjury based on personal
22 knowledge containing the information required for an ex parte
23 application under rule 3.1204(b); and

24 (4) ~~A memorandum; and~~

25
26 (D) A proposed order.

27
28 (2) When the temporary guardianship petition is prepared on the *Petition*
29 *for Appointment of Temporary Guardian of the Person* (form GC-
30 110(P)), a request for a good cause exception to the notice requirement
31 of section 2250(e) may be included in the petition.

32
33 **Rule 7.1062. The good cause exception to notice of the hearing on a petition**
34 **for appointment of a temporary conservator**

35
36 (a)—(d) * * *

1 (e) **Contents of request for good cause exception to notice**

2
3 A request for a good cause exception to the notice requirement of section
4 2250(e) must be in writing, separate from the petition for appointment of a
5 temporary conservator, and must include:

- 6
7 (1) An application containing the case caption and stating the relief
8 requested;
9
10 (2) An affirmative factual showing in support of the application in a
11 declaration under penalty of perjury containing competent testimony
12 based on personal knowledge;
13
14 (3) A declaration under penalty of perjury based on personal knowledge
15 containing the information required for an ex parte application under
16 rule 3.1204(b); and
17
18 ~~(4) A memorandum; and~~
19
20 (4) A proposed order.

GC-110(P)**Petition for Appointment of
Temporary Guardian of the Person**

Clerk stamps date here when form is filed.

Temporary guardianship of *(all children's names)*: _____**Draft 4
April 3, 2008****Not Approved by
the Judicial Council**

You may use this form or Petition for Appointment of Temporary Guardian or Conservator (form GC-110) to ask the court to appoint a temporary guardian of the person for a minor child. (You must use form GC-110 to ask for appointment of a temporary guardian of a minor child's estate or person and estate.) You may use this form to request appointment of a temporary guardian for one or more than one child. A petition for appointment of a (general) guardian concerning this child or these children (form GC-210 or form GC-210(P)) must have already been filed in this case or filed with this petition.

Fill in court name and street address:

Superior Court of California, County of _____
--

Clerk fills in case number when form is filed.

Case Number: _____

1 Your name (include the names of all persons who are requesting the court to appoint them or the person named in **4** as temporary guardian of the child or children named above and in **6**. All must sign this form.):

- a. _____
 b. _____

2 Your address and telephone number:

Street: _____ Apt.: _____

City: _____

State: _____ Zip: _____ Phone: _____

3 Your lawyer (if you have one):

Name: _____ Bar No.: _____

Firm name, if any: _____

Street: _____ Suite: _____

City: _____ State: _____ Zip: _____

Phone: _____ Fax (optional): _____ E-mail (optional): _____

4 I/We want to be the temporary guardian of the child or children named in **6**. (Go to **5**.) I/We want the person or persons named here to be the temporary guardian of the child or children named above. Tell the court about the proposed guardian(s) below.

Name(s): _____

Street: _____ Apt.: _____

City: _____ State: _____ Zip: _____

Phone: _____

 I am the child or one of the children named in **6** and one of the persons named in **1**. I am at least 12 years old. I want the person named here to be my temporary guardian.

My date of birth is (month/day/year): _____



Temporary guardianship of (all children's names): _____

Case Number: _____

5 The relationship of the proposed temporary guardian named in 1 or 4 to the child or children named in 6 is (check all that apply):

- Grandmother (father's mother) Aunt
- Grandfather (father's father) Uncle
- Grandmother (mother's mother) Brother (adult)
- Grandfather (mother's father) Sister (adult)
- Other Relative (explain relationship to child or children): _____

Not related to the child or children (explain proposed guardian's interest in or connection to the child):

6 The child or children who need a temporary guardian are:

a. Child's full legal name: _____

Child's current address: _____

Child's current phone number: _____

b. Child's full legal name: _____

Child's current address: _____

Child's current phone number: _____

Check here if you want a temporary guardian for additional children. Give the information asked above for each additional child on a separate sheet of paper. Write "Form GC-110(P)—Attachment 6: Additional Children" at the top of the paper and attach it to this form.

7 Why do the child or children in 6 need a temporary guardian right now?

The child or children need temporary care, maintenance, and support right now because (explain):

Check here if you need more space. Continue your explanation on a separate sheet of paper. Write "GC-110(P)—Item 7: Reasons for Appointment of Temporary Guardian" at the top of the paper and attach it to this form.



Temporary guardianship of (all children's names): _____

Case Number: _____

INFORMATION ABOUT GIVING NOTICE OF THE HEARING ON YOUR PETITION AND REQUESTING A GOOD CAUSE EXCEPTION TO GIVING NOTICE

You must give at least 5 days advance written notice of the court hearing on your petition for appointment of a temporary guardian. The written notice must be personally delivered to (1) the child if he or she is at least 12 years old, (2) the child's parents, and (3) any person who has a valid and effective visitation order with the child. Written notice is given by delivering a filled-in copy of this petition and a filled-in copy of a Notice of Hearing—Guardianship or Conservatorship (form GC-020), showing the date, time, and place of the hearing and the title of this petition. See What is "Proof of Service" in a Guardianship? (form GC-510) for more information on how to give notice in a guardianship and how to prove that you have given notice. The instructions in that form for personal service apply here, but the time limits for giving notice mentioned in that form do not apply to a temporary guardianship. There is much less time to complete this task when a petition for appointment of a temporary guardian is involved.

The court may waive (excuse) or change the requirement of giving notice if you can show the court good cause why an exception should be made to the requirement of giving notice. This showing may be made by completing item 9b on page 3 of this form.

If you want the court to waive notice to someone because he or she cannot be found, you must show the court that you have made reasonable efforts to find that person. See rules 7.52 and 7.1012 of the California Rules of Court for information on making reasonable efforts to find a person and on the good cause exception to notice of the hearing on a petition for appointment of a temporary guardian.

10 All attachments are made part of this form as though placed here.

There are _____ pages attached to this form. (If none, write "0.")

All persons named in ① (petitioners) and their attorney (if they have one) must read and sign below.

Date: _____
Petitioner's Attorney types or prints name here *Petitioner's Attorney signs here*

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

Date: _____
Petitioner types or prints name here *Petitioner signs here*

Date: _____
Petitioner types or prints name here *Petitioner signs here*

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	<p style="text-align: center;"><i>FOR COURT USE ONLY</i></p> <p style="text-align: center;">Draft 3</p> <p style="text-align: center;">April 3, 2008</p> <p style="text-align: center;">Not Approved by the Judicial Council</p>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF _____ <i>(Name):</i> _____ CONSERVATEE	
EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR of the <input type="checkbox"/> Person <input type="checkbox"/> Estate	CASE NUMBER: _____
Note to Applicant: Please review the instructions in item 6 on page 3 and at the bottom of that page for completing this form and supporting documents.	

1. Applicant *(name):* _____ is

- a. A petitioner for appointment of a temporary conservator of the person estate of the proposed conservatee.
- b. A proposed temporary conservator.

2. Immediate and substantial harm would be caused to the proposed conservatee, or his or her estate, during the notice period required by Probate Code section 2250(e) because of the following *(check all that apply):*

- a. A medical emergency *(give a brief description):*

(A medical emergency must be immediate and substantial; treatment must be reasonably unavailable unless a temporary conservator is appointed and cannot wait for the notice period because of the proposed conservatee's pain or extreme discomfort or a significant risk of harm.)

- b. A financial emergency *(give a brief description):*

(A financial emergency must be immediate and substantial. Means other than an exception to notice of hearing on the appointment of a temporary conservator must be shown likely to be ineffective to prevent loss or further loss to the proposed conservatee's estate during the notice period.)

- c. Other immediate and substantial emergency *(give a brief description):*

(An emergency must be immediate and likely to cause substantial harm to the proposed conservatee during the notice period.)

TEMPORARY CONSERVATORSHIP OF (Name): CONSERVATEE	CASE NUMBER:
--	--------------

3. Instead of an exception to giving any notice to the person(s) named in item 3c, Applicant requests that *(check all that apply)*:
- a. The time period of notice to the person(s) named in item 3c be changed as follows *(specify number of days of notice or number of hours if less than one day)*:
 - b. The method of giving notice to the person(s) named in item 3c be changed as follows *(specify method of service; for example, personal delivery, or fax or e-mail transmission)*:
 - c. The person(s), and his, her, or their relationship(s) to the proposed conservatee are as follows *(specify)*:

<u>Name</u>	<u>Relationship to proposed conservatee</u>
-------------	---

Additional person(s) and relationship(s) are listed on attachment 3c.

4. An exception to giving any notice to the person(s) named below should be made because of the potential harm to the proposed conservatee, or his or her estate, if notice is given *(Include in this category persons who might not cause harm themselves, but to whom notice should not be given because the notice is likely to bring harm to the proposed conservatee through the actions of another person. State the name(s) and relationship(s) to the proposed conservatee of person(s) who should not be given notice)*:

<u>Name</u>	<u>Relationship to proposed conservatee</u>
-------------	---

Additional person(s) and relationship(s) are listed on attachment 4.

5. An exception to giving any notice to the person(s) named below should be made because applicant cannot find the person(s), despite the exercise of due diligence to locate him, her, or them *(state name(s) and relationship(s) to minor or proposed conservatee of person(s) who could not be found)*:

<u>Name</u>	<u>Relationship to proposed conservatee</u>
-------------	---

Additional person(s) and relationship(s) are listed on attachment 5.

TEMPORARY CONSERVATORSHIP OF (Name): CONSERVATEE	CASE NUMBER:
--	--------------

6. The following documents are presented with this application in support:

- a. Applicant's *Petition for Appointment of Temporary Conservator*;
- b. Supporting declaration of (name):
- c. Supporting declaration of (name):
- d. Supporting declaration of (name):
- e. Supporting declaration of (name):

(At least one declaration supporting the grounds for a good cause exception to notice stated in items 2–5 of this application, showing facts within the personal knowledge of the person signing the declaration (or the declaration of an expert witness) is required. See rule 7.1062(e)(2) of the California Rules of Court and Evidence Code sections 800–805. You may use forms GC-112(A-1) and GC-112(A-2) for all supporting declarations.)

f. Declaration regarding notice of ex parte application of (name):

(This declaration is required with this application. See rule 7.1062(e)(3). You may use form GC-113 for this declaration.)

g. Other (describe):

; and

h. Proposed order. *(A proposed order must be submitted with this application. You must use form GC-115 for the order.)*

Date:

 (TYPE OR PRINT NAME OF APPLICANT OR ATTORNEY FOR APPLICANT)



 (SIGNATURE OF APPLICANT OR ATTORNEY FOR APPLICANT)

INSTRUCTIONS

1. Who must be given notice of a hearing on a petition for appointment of a temporary conservator?

At least 5 days' advance notice must be given (1) by **personal delivery** to the proposed conservatee and (2) by **mail or personal delivery** to the proposed conservatee's spouse or registered domestic partner and the proposed conservatee's brothers and sisters, parents, and grandparents, and children and grandchildren at least 12 years old or the parents, guardians or legal custodians of children or grandchildren under that age. If the proposed conservatee has no spouse or registered domestic partner and none of the relatives listed above, certain other persons must receive notice by mail or personal delivery. If the proposed temporary conservator has no prior relationship with the proposed conservatee, the public guardian of the county where the petition is filed must also be given notice by mail or personal delivery. See Probate Code sections 2250(e) and 1821(b). Written notice is given by delivery, in person or by mail, of a filled-out *Notice of Hearing—Guardianship or Conservatorship* (form GC-020) showing the time and place of the hearing and the nature of the relief to be requested, together with a copy of the *Petition for Appointment of a Temporary Conservator* (form GC-111).

2. Good cause exception to notice.

The court for good cause may order an exception to the notice requirements described above for some or all of the persons entitled to notice, either by waiving or dispensing with notice to them entirely or by changing the time and manner of giving notice to them. This form and the other forms that support it listed in item 6 above may be used to request an exception to the notice of hearing on a temporary conservatorship petition. See rule 7.1062 of the California Rules of Court for the standards for good cause exceptions to the notice requirements on a petition for appointment of a temporary conservator and for the required contents of a request for a good cause exception.

TEMPORARY CONSERVATORSHIP OF (Name): CONSERVATEE	CASE NUMBER:
--	--------------

DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR *


I (name): _____ declare as follows:

1. (This box must be checked unless the declarant is an expert witness.) I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2. I am an expert witness. My qualifications are stated below.
- 3.

Date and signature are on the last page of this declaration.

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

Date:

_____  _____
 (TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

* Use Declaration Continuation Page (form GC-112(A-2)) for additional pages of declaration.

TEMPORARY CONSERVATORSHIP OF (Name): CONSERVATEE	CASE NUMBER:
--	--------------

DECLARATION CONTINUATION PAGE *

I (name): _____ declare as follows:

Date and signature are on the last page of this declaration.

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

Date:

 (TYPE OR PRINT NAME OF DECLARANT)

▲

 (SIGNATURE OF DECLARANT)

* For use with form GC-112(A-1).

Page ____ of ____

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 4 April 3, 2008 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF (Name): _____ CONSERVATEE	
DECLARATION CONCERNING NOTICE OF EX PARTE APPLICATION *	CASE NUMBER: _____

I (name): _____ declare as follows:

1. I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2. Notice of this application under rule 7.1062(e)(3) of the California Rules of Court has been provided as follows (identify all persons or their attorneys to whom notice was given; the date(s), time(s), and manner of giving notice to each; what the persons or attorneys were told concerning the relief to be applied for and their responses; the information given as to where and when the application would be made; and whether opposition is expected):

Continued on attachment 2.

* You may use this form to show notice given, or reasons why notice could not or should not be given, of an ex parte application for an exception to notice of the hearing on a petition for appointment of a temporary conservator. You may use form GC-112 for the application. See the instructions on page 3 of that form and rule 7.1062 of the California Rules of Court. Do not use this form for a declaration in support of the application. You may use form GC-112(A-1) for that purpose.

TEMPORARY CONSERVATORSHIP OF (Name): CONSERVATEE	CASE NUMBER:
--	--------------

3. The following good faith efforts were made to inform the person(s) or attorney(s) named below of the application, without success (*name each person or attorney who could not be informed and describe the unsuccessful efforts to locate the person or attorney and to provide the information*):

Continued on attachment 3.

4. For the following reasons, the person(s) named below should not be informed about the application (*name each person who should not be informed and specify the reasons why he, she, or they should not be informed*):

Continued on attachment 4.

I declare under penalty of perjury under the laws of the State of California that the foregoing, including statement on all attachments, is true and correct.

Date:

 (TYPE OR PRINT NAME OF DECLARANT)

_____ 
 (SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY Draft 3 April 3, 2008 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF (<i>Name</i>): _____ CONSERVATEE	
ORDER ON EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR of the <input type="checkbox"/> Person <input type="checkbox"/> Estate	CASE NUMBER: _____

1. The ex parte application for good cause exception to notice of hearing on petition for appointment of temporary conservator came on for hearing as follows (*check boxes c-j to indicate personal presence*):
- a. Judicial officer (*name*):
 - b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 - c. Applicant (*name*):
 - d. Attorney for Applicant (*name*):
 - e. Proposed conservatee (*name*):
 - f. Attorney for proposed conservatee (*name*):
 - g. Proposed conservatee's spouse, registered domestic partner, and relative(s) (*name(s) and relationship(s)*):
 - h. Attorney(s) for person(s) listed in item g (*name(s) and person(s) represented*):
 - i. Public Guardian (*name*):
 - j. Attorney for Public Guardian (*name*):

THE COURT FINDS

- 2. a. Notice of the time and place of hearing has been given as required by law.
 - b. Notice of the time and place of hearing has been should be dispensed with for (*names*):
3. Good cause exists for an exception to notice of the hearing of the petition for appointment of a temporary conservator of (*name of petitioner*): _____ . The exception is essential to protect the proposed conservatee, or his or her estate, from substantial harm.
4. Immediate and substantial harm would be caused to the proposed conservatee, or his or her estate, during the notice period required by Probate Code section 2250(e) because of:
- a. An immediate and substantial medical emergency for which treatment is reasonably unavailable without the appointment of a temporary conservator. Treatment cannot wait for the notice period because of the proposed conservatee's pain or extreme discomfort or a significant risk of harm.

TEMPORARY CONSERVATORSHIP OF (Name): _____ <div style="text-align: right; margin-top: 10px;">CONSERVATEE</div>	CASE NUMBER: _____
--	--------------------

4. (cont.) b. An immediate and substantial financial emergency. Means other than an exception to notice of the hearing on the appointment of a temporary conservator are likely to be ineffective to prevent loss or further loss to the proposed conservatee's estate during the notice period.
- c. An immediate emergency that is likely to cause substantial harm to the proposed conservatee during the notice period.
5. The period of notice or the manner of giving notice to the person(s) named below should be modified as follows (*specify name(s), period of notice, and manner of giving notice*):
- | <u>Name</u> | <u>Period of Notice</u> | <u>Manner of Giving Notice</u> |
|-------------|-------------------------|--------------------------------|
| | | |
6. Notice should be dispensed with to the person(s) named below because of the harm he, she, or they, or another person, might do to the proposed conservatee, or his or her estate, if notice is given to the person(s) (*specify name(s)*):
7. Notice should be dispensed with to the person(s) named below because Applicant cannot find him, her, or them despite the exercise of due diligence (*specify name(s)*):

THE COURT ORDERS

8. Notice of the hearing on the petition of (*name*):
for appointment of a temporary conservator is
- a. dispensed with.
- b. dispensed with for the following named person(s) only:
- c. modified as follows for the following named person(s):

<u>Name</u>	<u>Period of Notice</u>	<u>Manner of Giving Notice</u>

9. Other orders as specified on Attachment 9 are made.

10. Number of pages attached: _____

Date:

JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY Draft 2 April 4, 2008 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (<i>Name</i>): _____ MINOR	CASE NUMBER: _____
ORDER APPOINTING TEMPORARY GUARDIAN	
WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.	

1. The petition for appointment of a temporary guardian came on for hearing as follows (*check boxes c–l to indicate personal presence*):

- a. Judicial officer (*name*): _____
- b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
- c. Petitioner (*name*): _____
- d. Attorney for petitioner (*name*): _____
- e. Minor (*name*): _____
- f. Attorney for minor (*name*): _____
- g. Minor’s parent(s) (*name(s)*): _____
- h. Attorney for minor’s parent(s) (*name(s)*): _____
- i. Person with valid visitation order (*name*): _____
- j. Attorney for person with valid visitation order (*name*): _____
- k. Public Guardian (*name*): _____
- l. Attorney for Public Guardian (*name*): _____

THE COURT FINDS

- 2. a. Notice of the time and place of hearing has been given as required by law.
- b. Notice of the time and place of hearing has been should be dispensed with for (*names*): _____

- 3. It is necessary that a temporary guardian be appointed to provide for temporary care, maintenance, and support
 protect property from loss or injury pending the hearing on the petition for appointment of a general guardian.
 pending an appeal under Probate Code section 1301. during the suspension of powers of the guardian.

THE COURT ORDERS

- 4. a. (*Name*): _____
 (*Address*): _____ (*Telephone*): _____

 is appointed temporary guardian of the PERSON of (*name*): _____
 and Letters shall issue upon qualification.
- b. (*Name*): _____
 (*Address*): _____ (*Telephone*): _____

 is appointed temporary guardian of the ESTATE of (*name*): _____
 and Letters shall issue upon qualification.

TEMPORARY GUARDIANSHIP OF (Name):	CASE NUMBER:
MINOR	

5. Notice of hearing to the persons named in item 2b is dispensed with.
6. a. Bond is not required.
- b. Bond is fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law.
- c. Deposits of: \$ _____ are ordered to be placed in a blocked account at *(specify institution and location)*: _____
- and receipts shall be filed. No withdrawals shall be made without a court order. Additional orders in attachment 6c.
- d. The temporary guardian is not authorized to take possession of money or any other property without a specific court order.
7. In addition to the powers granted by law, the temporary guardian is granted other powers. These powers are specified in attachment 7. below *(specify)*: _____

8. Other orders as specified in attachment 8 are granted.
9. Unless modified by further order of the court, this order expires on *(date)*: _____
10. Number of boxes checked in items 4–9: _____
11. Number of pages attached: _____

Date: _____

 JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): <hr/> TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY Draft 2 April 4, 2008 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (<i>Name</i>): _____ CONSERVATEE	
ORDER APPOINTING TEMPORARY CONSERVATOR	CASE NUMBER: _____
WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.	

1. The petition for appointment of a temporary conservator came on for hearing as follows (*check boxes c–h to indicate personal presence*):

- a. Judicial officer (*name*): _____
- b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
- c. Petitioner (*name*): _____
- d. Attorney for petitioner (*name*): _____
- e. Conservatee (*name*): _____
- f. Attorney for conservatee (*name*): _____
- g. Conservatee’s spouse or registered domestic partner, and relative(s) (*name(s) and relationship(s)*): _____

- h. Attorney(s) for person(s) listed in item g (*name(s) and person(s) represented*): _____

- i. Public Guardian (*name*): _____
- j. Attorney for Public Guardian (*name*): _____

THE COURT FINDS

- 2. a. Notice of time and place of hearing has been given as required by law.
- b. Notice of time and place of hearing has been modified or dispensed with under *Order on Ex Parte Application for Good Cause Exception to Notice on Petition for Appointment of Temporary Conservator* filed on (*date*): _____
- 3. It is necessary that a temporary conservator be appointed to provide for temporary care, maintenance, and support
 protect property from loss or injury
 - a. pending the hearing on the petition for appointment of a general conservator.
 - b. pending an appeal under Probate Code section 1301.
 - c. during the suspension of powers of the conservator.
- 4. To prevent irreparable harm, the residence of the conservatee must be changed. No means less restrictive of the conservatee's liberty will prevent irreparable harm.

TEMPORARY CONSERVATORSHIP OF (Name): _____ <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER: _____
--	---------------------------

5. The conservatee must be removed from the State of California to permit the performance of nonpsychiatric medical treatment essential to the conservatee's physical survival. The conservatee consents to this medical treatment.
6. The conservatee need not attend the hearing.

THE COURT ORDERS

7. a. (Name): _____ (Telephone): _____
 (Address): _____

is appointed temporary conservator of the PERSON of (name): _____
 and Letters shall issue upon qualification.

b. (Name): _____ (Telephone): _____
 (Address): _____

is appointed temporary conservator of the ESTATE of (name): _____
 and Letters shall issue upon qualification.

8. a. Bond is not required.
- b. Bond is fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law.
- c. Deposits of: \$ _____ are ordered to be placed in a blocked account at (specify institution and location): _____

and receipts shall be filed. No withdrawals shall be made without a court order. Additional orders in attachment 8c.

- d. The temporary conservator is not authorized to take possession of money or any other property without a specific court order.
9. The temporary conservator is authorized to change the residence of the conservatee to (address): _____
10. The conservator is authorized to remove the conservatee from the State of California to the following address to permit the performance of nonpsychiatric medical treatment essential to the conservatee's physical survival (address): _____
11. The conservatee need not attend the hearing.
12. In addition to the powers granted by law, the temporary conservator is granted other powers. These powers are specified in attachment 12 below (specify): _____

13. Other orders as specified in attachment 13 are granted.
14. Unless modified by further order of the court, this order expires on (date): _____

15. Number of boxes checked in items 8–14: _____

16. Number of pages attached: _____

Date: _____

 JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

Item SPR08-45 Response Form

Title: Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators (amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; adopt forms GC-112, GC-112(A-1), GC-112(A-2), GC-113, GC-115 and GC-141)

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

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization

Address: _____

City, State, Zip: _____

To Submit Comments

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

Internet: www.courtinfo.ca.gov/invitationstocomment

Email: invitations@jud.ca.gov

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

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

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 20, 2008

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