

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee  
Hon. Don Edward Green, Chair  
Douglas C. Miller, Committee Counsel,  
415-865-7535, douglas.miller@jud.ca.gov

DATE: January 16, 2008

SUBJECT: Probate: Qualifications of Counsel for Appointment in  
Conservatorships and Guardianships (adopt Judicial Council  
form GC-010) (Action Required)

Issue Statement

On December 14, 2007, the Judicial Council adopted rule 7.1101 of the California Rules of Court to prescribe the qualifications of counsel for appointment by the court to represent conservatees or proposed conservatees in probate conservatorships and minors in probate guardianships under Probate Code sections 1470 and 1471. The new rule became effective on January 1, 2008.

Rule 7.1101 requires counsel appointed by the court before the effective date of the rule in matters that are still pending after that date, and those appointed in new matters through March 2008, to certify their qualifications under the rule no later than April 1, 2008. After the latter date, the rule provides that counsel must certify their qualifications before they are eligible for appointment in new matters.<sup>1</sup>

There is no standard method currently available for attorneys to certify their qualifications under the rule.

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<sup>1</sup> See rule 7.1101(d), (h)(1), and (h)(2).

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective March 1, 2008, adopt form GC-010, *Certification of Attorney Concerning Qualifications for Court Appointment in Conservatorships or Guardianships*, to provide the means for attorneys to certify their qualifications for court appointments under rule 7.1101. The early effective date is proposed so that the new form would be available to courts and counsel before April 1, 2008, to facilitate compliance with the transitional provisions of the rule and ensure that counsel will be able to demonstrate their qualifications for appointments on or immediately after that date.

A copy of proposed form GC-010 is attached at pages 7–10.

The text of rule 7.1101 and Probate Code sections 1470–1472 is attached for reference purposes at pages 11–18.

### Rationale for Recommendation

The Judicial Council, in response to a 2006 legislative mandate, adopted rule 7.1101 of the California Rules of Court, effective January 1, 2008.<sup>2</sup> The new rule establishes qualifications for counsel appointed to represent conservatees or proposed conservatees in probate conservatorships or minors in guardianships and requires attorneys to certify that they meet the qualifications.

The advisory committee proposes the adoption, effective March 1, 2008, of form GC-010 as a mandatory form to be used by attorneys to provide the certification required of counsel by rule 7.1101(h). The new form is designed to be used in conjunction with, not to replace, applications or similar written forms required by courts for counsel to be considered for court appointments.

The proposed form follows the rule in that it provides for information to be supplied by attorneys in private practice and by deputy public defenders directly responsible for performing legal services on the appointment of a county's public defender. Items 3b and 4a of the form show the qualifications for appointments to represent minors in guardianships. Items 3c and 4b show the qualifications for appointments in conservatorships.<sup>3</sup>

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<sup>2</sup> See Probate Code section 1456(a)(1) and (3), added to the code by Stats. 2006, ch. 493 (Assembly Bill 1363), § 3, part of the Omnibus Conservatorship and Guardianship Reform Act of 2006.

<sup>3</sup> Deputy public defenders who qualify because they satisfy one or more of the experience requirements for private counsel under rule 7.1101(c)(1)(A) would indicate their qualifications by checking the check boxes for either item 4a(1) and the appropriate checkboxes in item 3b for guardianship appointments, or item 4b(1) and the appropriate check boxes in item 3c for conservatorship appointments.

Item 5 of the form would apply to attorneys who do not meet the qualifications required by rule 7.1101(b) or (c) but wish to be considered for appointments in conservatorships or guardianships in courts with four or fewer authorized judges. These courts may waive the qualification requirements under rule 7.1101(e).

Items 3d and 4c of the form would provide the statements of counsel required by rule 7.1101(b)(3) or 7.1101(c)(2) concerning coverage under a professional liability policy or county self-insurance program, including identification of the insurer or self-insurance program.

#### Alternative Actions Considered

Rule 7.1101(f) requires counsel appointed by the court under the rule to complete three hours of continuing education each calendar year, beginning in 2008. Rule 7.1101(h)(3) requires appointed counsel to certify that they have satisfied this requirement yearly, beginning in 2009. The advisory committee considered adding an item to this form for the education certification, thereby creating one form for certifying qualifications and compliance with education requirements.

The advisory committee decided instead to create a separate new form for the continuing education certification, to be effective January 1, 2009. The education requirement is modest; the education certification form should be only one page long. However, it must be filed annually. The committee believes that the courts and counsel would both benefit from the shorter form for repeated filing.

The advisory committee also considered requiring attorneys to identify the name of their professional liability insurer and attach an insurance certificate or other evidence of coverage to the form. The committee decided not to require this information in every case, preferring instead to permit courts to rely on the attorney's certification of coverage, with the understanding that the court could require the identity of the insurer and additional proof of coverage at its discretion.

#### Comments From Interested Parties

This proposal was circulated for comment in a special cycle to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters and assistance to unrepresented persons, probate interest sections of the State Bar and local bar associations, and representatives of other organizations interested in probate matters generally, in addition to court executives, presiding judges, individuals, and organizations with a more general interest in court-related issues. A special effort was made to solicit the comments of persons or organizations who had commented on underlying rule 7.1101 in 2007.

Nineteen comments were received. A chart showing the comments received and the advisory committee's responses is attached to this report beginning at page 19.

Seven commentators approved the form as drafted. Ten commentators approved the form with modifications. Four of those commentators propose changes in the underlying rule, not the form.<sup>4</sup> The advisory committee will treat these comments as proposals for changes in the rule and will consider them at a later time.

Ms. Christine N. Carlson, a staff attorney for the Superior Court of Solano County, requested that the form be modified to delete certification provisions for deputy public defenders in guardianships because Probate Code section 1470 expressly authorizes appointment of private counsel only. The advisory committee's response is to note that appellate opinions support the appointment of a county's public defender under section 1470, and that a 2007 amendment to that section makes it highly likely that counties will provide public defenders for appointments for indigent minors in guardianships.<sup>5</sup>

Ms. Carlson also requests that the form be modified to call for the attorney to identify his or her professional liability insurer. Ms. Grace Andres, a court services program manager who is also from the Superior Court of Solano County, joined in this request. These comments are contrary to the recommendations of the legal research attorneys of the Superior Court of San Bernardino County, and Ms. Cheryl Kanatzar, the Deputy Executive Officer of the Superior Court of Ventura County. The advisory committee agreed with Ms. Carlson and Ms. Andres. The

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<sup>4</sup> See comments of Ms. Magany Abbass and Mr. Edward W. Goodson, attorneys in private practice; and Judges Suzanne N. Kingsbury, presiding judge of the Superior Court of El Dorado County, and Mary Ann Grilli, Superior Court of Santa Clara County. Judge Grilli recommended changes in the rule and the form.

<sup>5</sup> Stats. 2007, ch. 719 (Senate Bill 241), § 1 added the following new paragraph (3) to Probate Code section 1470(c), effective January 1, 2008:

“(3) If a ward or proposed ward is furnished legal counsel for a guardianship proceeding, upon its own motion or that of a party, the court shall determine whether a parent or parents of the ward or proposed ward or the estate of the ward or proposed ward is financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section. Any portion of the cost of that counsel that the court finds the parent or parents or the estate of the ward or proposed ward is unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.”

Section 1470 does not mention the public defender and explicitly refers to private counsel, but there is appellate authority for the proposition that the public defender may be appointed under section 1470 for indigent minors in guardianships and conservatees in probate conservatorships notwithstanding the express language of the section. See *Guardianship of Elan E.* (2000) 85 Cal.App.4th 998, 1001–1002 (indigent minor in probate guardianship); *Conservatorship of Berry* (1989) 210 Cal.App.3d 706, 722–724 (indigent conservatee). See also, Government Code sections 27706(d) and 27707 (duties of the county public defender).

committee revised the form to call for name of the attorney's professional liability insurer or county self-insurance program.

Judges Mary Ann Grilli, and Aviva K. Bobb, of the Superior Courts of Santa Clara and Los Angeles Counties, respectively, asked that the form include the attorney's certification of continuing education required by rule 7.1101(h)(3). As discussed above, the advisory committee decided instead to prepare a separate one-page form for this purpose so that attorneys would not be required to yearly file, and the court would not be required to yearly receive, a four-page form calling for qualification information not required under rule 7.1101 after the form's initial filing.

Judge Bobb recommended that item 3b(2) on the first page of the form should be modified by deleting the reference to "this court's local rules." The advisory committee modified item 3b(2) slightly to read "I am qualified for appointment to represent children in juvenile dependency proceedings under local court rules required by rule 5.660 of the California Rules of Court."

This item refers to qualifications of counsel appointed to represent children in juvenile dependency proceedings under rule 5.660 of the California Rules of Court as a basis for qualifying to represent minors in guardianships under rule 7.1101(b)(1)(B)(i). Rule 5.660 requires courts to adopt or modify local rules to establish minimum standards of experience, training, and education of attorneys representing parties in the juvenile court. To the extent those local rule standards apply to appointments made in the juvenile court under rule 5.660, they also must be satisfied to support qualification for guardianship appointments on this basis under rule 7.1101.

Judge Bobb further recommended that items 3a and 5 require attorneys to report, in writing and within a specific period of time, any changes in their State Bar disciplinary and professional liability insurance status after the initial qualification statement. The advisory committee's response is to note that rule 7.1101 may not support a requirement to provide these updated reports after an attorney's initial qualification, but that courts are free to require counsel appointed by them to provide this information. The advisory committee will treat this recommendation as a request to modify the rule and will consider it at a later time. The committee will also consider adding this reporting requirement to the proposed annual education reporting form.

The Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee Joint Rules Working Group recommended that the form be made an optional form. The advisory committee believes the form should be a mandatory form under rule 1.31 of the California Rules of Court but noted in

response to the working group's comment that the form may be augmented by local requirements, including an application or a local form to supplement the statewide form. Four commentators expressly supported the form as a mandatory form.<sup>6</sup>

Private attorney Joseph Tinney opposed the proposed form. His comment, however, is directed at the legislation that led to rule 7.1101 and this proposed form rather than to the contents of the rule or the form.

#### Implementation Requirements and Costs

Adoption of this form will result in the usual costs associated with the creation and distribution of any Judicial Council form. However, the availability of a standardized form to be used by all attorneys seeking appointments by courts in cases under Probate Code sections 1470 and 1471 should reduce the costs incurred by the courts to develop and maintain their own records of court appointments in these cases.

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<sup>6</sup> See comments of Ms. Grace Andres, Judge Aviva K. Bobb, Ms. Christine N. Carlson, and Ms. Cheryl Kanatzar.

<p align="center"><b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b></p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:</p>	<p><i>FOR COURT USE ONLY (Do not file or lodge in case file)</i></p>
<p>CERTIFYING ATTORNEY <span style="float:right">State Bar No.:</span></p> <p><i>(Name):</i></p>	<p>ADMINISTRATIVE FILE NUMBER:</p>

**CERTIFICATION OF ATTORNEY CONCERNING QUALIFICATIONS FOR COURT APPOINTMENT IN**  
 **CONSERVATORSHIPS**     **GUARDIANSHIPS**

**NOTICE TO ATTORNEYS:**

1. If you were appointed by the court in a conservatorship or guardianship matter that is pending on April 1, 2008, or if you are a deputy public defender with direct responsibility for the performance of legal services on the appointment of a county's public defender in such a matter, you must certify on or before that date that you are qualified for the appointment under rule 7.1101(b) or 7.1101(c) of the California Rules of Court.
2. On or after April 1, 2008, you must certify to the court that you are qualified under rule 7.1101(b) or 7.1101(c) before you may be appointed by the court, or may be placed in direct responsibility for the performance of legal services on appointment of a county's public defender, in a conservatorship or guardianship matter.
3. Under certain circumstances, courts with four or fewer authorized judges may waive the qualifications for appointed counsel under rule 7.1101. (See rule 7.1101(e).)

I certify as follows *(check all boxes that apply)*:

1. I was admitted to the State Bar of California on *(date)*: \_\_\_\_\_ . I am currently an active member.
2. My contact information is as follows:
  - a. Firm or employer name:
  
  - b. Address:
  
  - c. Telephone number: \_\_\_\_\_ d. Fax number: \_\_\_\_\_
  - e. E-mail address: \_\_\_\_\_
3.  I am an attorney in private practice.
  - a. As of the date of this certification, I have no disciplinary proceedings pending with the State Bar of California and have had no discipline imposed within the 12-month period immediately preceding that date.     Yes     No
  - b.  I am qualified to accept appointments by the court to represent minors in probate guardianships under Probate Code section 1470 under rule 7.1101(b)(1) of the California Rules of Court, in that:
    - (1)  Within the five years immediately before the date of this certificate, I have represented at least three wards or proposed wards in probate guardianships, three children in juvenile court dependency or delinquency proceedings, or three children in child custody proceedings under the Family Code; or
    - (2)  I am qualified for appointment to represent children in juvenile dependency proceedings under local court rules required by rule 5.660 of the California Rules of Court; or
    - (3)  I am qualified for appointment to represent children in custody proceedings under the Family Code under rule 5.242 of the California Rules of Court.

<b>CERTIFICATION OF ATTORNEY</b> <i>(Name):</i> _____	FILE NUMBER: _____
<b>CONCERNING QUALIFICATIONS FOR APPOINTMENT IN</b> <input type="checkbox"/> <b>CONSERVATORSHIPS</b> <input type="checkbox"/> <b>GUARDIANSHIPS</b>	

3. *(cont.)* c.  I am qualified to accept appointments by the court to represent conservatees or proposed conservatees under Probate Code sections 1470 or 1471 under rule 7.1101(b)(2) of the California Rules of Court, in that, within the five years immediately before the date of this certificate:
- (1)  I have represented at least three conservatees or proposed conservatees in probate or Lanterman-Petris-Short Act conservatorship proceedings; or
  - (2)  I have completed at least three of the following five tasks:
    - (A)  Represented probate conservatorship petitioners at commencement of three probate conservatorship proceedings, from initial contact with the petitioner through the appointment hearing and issuance of Letters of Conservatorship;
    - (B)  Represented a petitioner, a conservatee or a proposed conservatee, or an interested third party, in two contested probate or Lanterman-Petris-Short Act conservatorship matters *(a contested matter that qualifies under items (A) and (B) may be applied to both items)*;
    - (C)  Represented a party for whom a court could appoint counsel in a total of three matters under Probate Code sections 1470, 1471, 1954, 2356.5, 2357, 2620.2, 3140, or 3205;
    - (D)  Represented fiduciaries in three cases for settlement of a court-filed account and report, through filing, hearing, and settlement, in any combination of probate conservatorships or guardianships, decedents' estates, or trust proceedings under division 9 of the Probate Code; or
    - (E)  Prepared five wills or trusts, five durable powers of attorney for health care, and five durable powers of attorney for asset management.
- d. (1)  I am covered by professional liability insurance in the amount of at least \$100,000 per claim and \$300,000 per year. My insurer is *(specify)*: \_\_\_\_\_
- (2)  I am not covered by professional liability insurance in at least the minimum amounts stated above.
- e. I will, if requested, provide the case names and numbers, courts, and parties I represented in the court proceedings identified above and, if item 3c(2)(E) is checked, redacted copies of the estate planning documents prepared.
4.  I am a deputy public defender of *(name of county)*: \_\_\_\_\_
- a.  I would be directly responsible for performing legal services for minors in probate guardianships on the appointment of my county's public defender under Probate Code section 1470. I certify that I am qualified to perform those services under rule 7.1101(c)(1) of the California Rules of Court, in that:
    - (1)  I satisfy the experience requirements for attorneys in private practice for appointment to represent minors in probate guardianships identified in item 3b above, as shown by the boxes checked in that item *(check the box for item 3b above and as many of the boxes for items 3b(1), 3b(2), or 3b(3) as apply to you, but do not check the box for item 3)*; or
    - (2)  I have at least three years' experience representing minors in juvenile dependency or delinquency proceedings or patients, proposed conservatees, or conservatees in postcertification judicial proceedings or conservatorships under the Lanterman-Petris-Short Act.
  - b.  I would be directly responsible for performing legal services for conservatees or proposed conservatees in probate conservatorships on the appointment of my county's public defender under Probate Code sections 1470 and 1471. I certify that I am qualified to perform those services under rule 7.1101(c)(1) of the California Rules of Court, in that:
    - (1)  I satisfy the experience requirements for attorneys in private practice for appointment to represent conservatees or proposed conservatees in probate conservatorships identified in item 3c above, as shown by the boxes checked in that item *(check the box for item 3c above and as many of the boxes for items 3c(1) and 3c(2)(A)–(E) as apply to you, but do not check the box for item 3)*; or
    - (2)  I have at least three years' experience representing minors in juvenile dependency or delinquency proceedings or patients, proposed conservatees, or conservatees in postcertification judicial proceedings or conservatorships under the Lanterman-Petris-Short Act.

<b>CERTIFICATION OF ATTORNEY</b> <i>(Name):</i> <b>CONCERNING QUALIFICATIONS FOR APPOINTMENT IN</b> <input type="checkbox"/> <b>CONSERVATORSHIPS</b> <input type="checkbox"/> <b>GUARDIANSHIPS</b>	<b>FILE NUMBER:</b>
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4. (cont.) c. (1)  I am covered by professional liability insurance in the amount of at least \$100,000 per claim and \$300,000 per year or at an equivalent level by a self-insurance program for the professional employees of my county.  
My insurer or self-insurance program is *(specify)*:
- (2)  I am not covered by professional liability insurance or a county self-insurance program in at least the minimum amounts stated above.
- d. I will, if requested, provide the case names and numbers, courts, and parties I represented in the court proceedings identified in item 3 above, if any, and, if item 3c(2)(E) is checked, redacted copies of the estate planning documents prepared.
5.  *(Complete this item if you do not qualify for appointment under items 3 or 4 above but wish to be considered for an appointment in a conservatorship or guardianship by a court with four or fewer authorized judges under rule 7.1101(e) of the California Rules of Court.)*
- a. I wish to be considered by the court for appointment as legal counsel in  conservatorships  guardianships on a waiver under rule 7.1101(e) of the California Rules of Court.
- b.  I am an attorney in private practice.
- (1) Facts supporting my appointment are stated in attachment 5 to this certification. I certify that the facts stated are true and correct.
- (2)  I am covered by professional liability insurance in the amount of at least \$100,000 per claim and \$300,000 per year. My insurer is *(specify)*:
- (3)  I am not covered by professional liability insurance in at least the minimum amounts stated above.
- c.  I am a deputy public defender who would be responsible for performing legal services on the appointment of my county's public defender.
- (1) Facts supporting my appointment are stated in attachment 5 to this certification. I certify that the facts stated are true and correct.
- (2)  I am covered by professional liability insurance in the amount of at least \$100,000 per claim and \$300,000 per year or at an equivalent level by a self-insurance program for the professional employees of my county. My insurer or self-insurance program is *(specify)*:
- (3)  I am not covered by professional liability insurance or a county self-insurance program in at least the minimum amounts stated above.
6.  Additional information required by the court is  provided in attachment 6.  submitted separately with this certification.  as follows:

Additional space provided and signature required on next page.

CERTIFICATION OF ATTORNEY <i>(Name)</i> :	FILE NUMBER:
CONCERNING QUALIFICATIONS FOR APPOINTMENT IN <input type="checkbox"/> CONSERVATORSHIPS <input type="checkbox"/> GUARDIANSHIPS	

6. Additional information required by the court *(continued)*

I certify that the foregoing, including statements made in all attachments and other documents submitted with this certification, is true and correct.

Dated:

\_\_\_\_\_  
(TYPE OR PRINT NAME OF CERTIFYING ATTORNEY )

 \_\_\_\_\_  
(SIGNATURE)

**Rule 7.1101. Qualifications and continuing education required of counsel appointed by the court in guardianships and conservatorships**

**(a) Definitions**

As used in this rule, the following terms have the meanings stated below:

- (1) "Appointed counsel" or "counsel appointed by the court" are legal counsel appointed by the court under Probate Code sections 1470 or 1471, including counsel in private practice and deputy public defenders directly responsible for the performance of legal services under the court's appointment of a county's public defender.
- (2) A "probate guardianship" or "probate conservatorship" is a guardianship or conservatorship proceeding under division 4 of the Probate Code.
- (3) "LPS" and "LPS Act" refer to the Lanterman-Petris-Short Act, Welfare and Institutions Code section 5000 et seq.
- (4) An "LPS conservatorship" is a conservatorship proceeding for a gravely disabled person under chapter 3 of the LPS Act, Welfare and Institutions Code sections 5350-5371.
- (5) A "contested matter" in a probate or LPS conservatorship proceeding is a matter that requires a noticed hearing and in which written objections are filed by any party or made by the conservatee or proposed conservatee orally in open court.
- (6) "AOC" is the Administrative Office of the Courts.

**(b) Qualifications of appointed counsel in private practice**

Except as provided in this rule, each counsel in private practice appointed by the court on or after January 1, 2008, must be an active member of the State Bar of California for at least three years immediately before the date of appointment, with no disciplinary proceedings pending and no discipline imposed within the 12 months immediately preceding the date of first availability for appointment after January 1, 2008; and

- (1) *Appointments to represent minors in guardianships*

For an appointment to represent a minor in a guardianship:

- (A) Within the five years immediately before the date of first availability for appointment after January 1, 2008, must have represented at least three wards or proposed wards in probate

guardianships, three children in juvenile court dependency or delinquency proceedings, or three children in custody proceedings under the Family Code; or

- (B) At the time of appointment, must be qualified:
  - (i) For appointments to represent children in juvenile dependency proceedings under rule 5.660 and the court's local rules governing court-appointed juvenile court dependency counsel; or
  - (ii) For appointments to represent children in custody proceedings under the Family Code under rule 5.242, including the alternative experience requirements of rule 5.242(g).
- (C) Counsel qualified for appointments in guardianships under (B) must satisfy the continuing education requirements of this rule in addition to the education or training requirements of the rules mentioned in (B).

(2) *Appointments to represent conservatees or proposed conservatees*

For an appointment to represent a conservatee or a proposed conservatee, within the five years immediately before the date of first availability for appointment after January 1, 2008, counsel in private practice must have:

- (A) Represented at least three conservatees or proposed conservatees in either probate or LPS conservatorships; or
- (B) Completed any three of the following five tasks:
  - (i) Represented petitioners for the appointment of a conservator at commencement of three probate conservatorship proceedings, from initial contact with the petitioner through the hearing and issuance of Letters of Conservatorship;
  - (ii) Represented a petitioner, a conservatee or a proposed conservatee, or an interested third party in two contested probate or LPS conservatorship matters. A contested matter that qualifies under this item and also qualifies under (i) may be applied toward satisfaction of both items;
  - (iii) Represented a party for whom the court could appoint legal counsel in a total of three matters described in Probate

Code sections 1470, 1471, 1954, 2356.5, 2357, 2620.2, 3140, or 3205;

- (iv) Represented fiduciaries in three separate cases for settlement of a court-filed account and report, through filing, hearing, and settlement, in any combination of probate conservatorships or guardianships, decedent's estates, or trust proceedings under division 9 of the Probate Code; or
  - (v) Prepared five wills or trusts, five durable powers of attorney for health care, and five durable powers of attorney for asset management.
- (3) Private counsel qualified under (1) or (2) must also be covered by professional liability insurance satisfactory to the court in the amount of at least \$100,000 per claim and \$300,000 per year.

**(c) Qualifications of deputy public defenders performing legal services on court appointments of the public defender**

- (1) Except as provided in this rule, beginning on January 1, 2008, each county deputy public defender with direct responsibility for the performance of legal services in a particular case on the appointment of the county public defender under Probate Code sections 1470 or 1471 must be an active member of the State Bar of California for at least three years immediately before the date of appointment; and either
- (A) Satisfy the experience requirements for private counsel in (b)(1) for appointments in guardianships or (b)(2) for appointments in conservatorships; or
  - (B) Have a minimum of three years' experience representing minors in juvenile dependency or delinquency proceedings or patients in postcertification judicial proceedings or conservatorships under the LPS Act.
- (2) A deputy public defender qualified under (1) must also be covered by professional liability insurance satisfactory to the court in the amount of at least \$100,000 per claim and \$300,000 per year, or be covered for professional liability at an equivalent level by a self-insurance program for the professional employees of his or her county.
- (3) A deputy public defender who is not qualified under this rule may periodically substitute for a qualified deputy public defender with direct responsibility for the performance of legal services in a particular case. In

that event, the county public defender or his or her designee, who may be the qualified supervisor, must certify to the court that the substitute deputy is working under the direct supervision of a deputy public defender who is qualified under this rule.

**(d) Transitional provisions on qualifications**

- (1) Counsel appointed before January 1, 2008, may continue to represent their clients through March 2008, whether or not they are qualified under (b) or (c). After March 2008, through conclusion of these matters, the court may retain or replace appointed counsel who are not qualified under (b) or (c) or may appoint qualified co-counsel to assist them.
- (2) In January, February, and March 2008, the court may appoint counsel in new matters who have not filed the certification of qualifications required under (h) at the time of appointment but must replace counsel appointed under this paragraph who have not filed the certificate before April 1, 2008.

**(e) Exemption for small courts**

- (1) Except as provided in (2), the qualifications required under (b) or (c) may be waived by a court with four or fewer authorized judges if it cannot find qualified counsel or for other grounds of hardship.
- (2) A court may not waive the insurance or self-insurance requirements of (b)(3) or (c)(2).
- (3) A court waiving the qualifications required under (b) or (c) must make express written findings showing the circumstances supporting the waiver and disclosing all alternatives considered, including appointment of qualified counsel from adjacent counties and other alternatives not selected.

**(f) Continuing education of appointed counsel**

Beginning on January 1, 2008, counsel appointed by the court must complete three hours of education each calendar year that qualifies for mandatory continuing legal education credit for State Bar-certified specialists in estate planning, trust, and probate law.

**(g) Additional court-imposed qualifications, education, and other requirements**

The qualifications in (b) and (c) and the continuing education requirement in (f) are minimums. A court may establish higher qualification or continuing education requirements, including insurance requirements; require initial education or

training; and impose other requirements, including an application by private counsel.

**(h) Certification of qualifications and continuing education**

- (1) Each counsel appointed or eligible for appointment by the court before January 1, 2008, including deputy public defenders, must certify to the court in writing before April 1, 2008, that he or she satisfies the qualifications under (b) or (c) to be eligible for a new appointment on or after that date.
- (2) After March 2008, each counsel must certify to the court that he or she is qualified under (b) or (c) before becoming eligible for an appointment under this rule.
- (3) Beginning in 2009, each appointed counsel must certify to the court before the end of March of each year that he or she has completed the continuing education required for the preceding calendar year.
- (4) Certifications required under this subdivision must be submitted to the court but are not to be filed or lodged in a case file.

**(i) Reporting**

The AOC may require courts to report appointed counsel's qualifications and completion of continuing education required by this rule to ensure compliance with Probate Code section 1456.

## Probate Code sections 1470–1472

1470.

- (a) The court may appoint private legal counsel for a ward, a proposed ward, a conservatee, or a proposed conservatee in any proceeding under this division if the court determines the person is not otherwise represented by legal counsel and that the appointment would be helpful to the resolution of the matter or is necessary to protect the person's interests.
- (b) If a person is furnished legal counsel under this section, the court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel. The sum may, in the discretion of the court, include compensation for services rendered, and expenses incurred, before the date of the order appointing counsel.
- (c) The court shall order the sum fixed under subdivision (b) to be paid:
  - (1) If the person for whom legal counsel is appointed is an adult, from the estate of that person.
  - (2) If the person for whom legal counsel is appointed is a minor, by a parent or the parents of the minor or from the minor's estate, or any combination thereof, in any proportions the court deems just.
  - (3) If a ward or proposed ward is furnished legal counsel for a guardianship proceeding, upon its own motion or that of a party, the court shall determine whether a parent or parents of the ward or proposed ward or the estate of the ward or proposed ward is financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section. Any portion of the cost of that counsel that the court finds the parent or parents or the estate of the ward or proposed ward is unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.
- (d) The court may make an order under subdivision (c) requiring payment by a parent or parents of the minor only after the parent or parents, as the case may be, have been given notice and the opportunity to be heard on whether the order would be just under the circumstances of the particular case.

1471.

- (a) If a conservatee, proposed conservatee, or person alleged to lack legal capacity is unable to retain legal counsel and requests the appointment of counsel to assist in the particular matter, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interest of such person in the following proceedings under this division:
  - (1) A proceeding to establish a conservatorship or to appoint a proposed conservator.
  - (2) A proceeding to terminate the conservatorship.
  - (3) A proceeding to remove the conservator.
  - (4) A proceeding for a court order affecting the legal capacity of the conservatee.
  - (5) A proceeding to obtain an order authorizing removal of a temporary conservatee from the temporary conservatee's place of residence.
- (b) If a conservatee or proposed conservatee does not plan to retain legal counsel and has not requested the court to appoint legal counsel, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interests of such person in any proceeding listed in subdivision (a) if, based on information contained in the court investigator's report or obtained from any other source, the court determines that the appointment would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee or proposed conservatee.
- (c) In any proceeding to establish a limited conservatorship, if the proposed limited conservatee has not retained legal counsel and does not plan to retain legal counsel, the court shall immediately appoint the public defender or private counsel to represent the proposed limited conservatee. The proposed limited conservatee shall pay the cost for such legal service if he or she is able. This subdivision applies irrespective of any medical or psychological inability to attend the hearing on the part of the proposed limited conservatee as allowed in Section 1825.

1472.

- (a) If a person is furnished legal counsel under Section 1471:
  - (1) The court shall, upon conclusion of the matter, fix a reasonable sum for compensation and expenses of counsel and shall make a determination of the person's ability to pay all or a portion of that sum. The sum may, in the discretion of the court, include compensation for services rendered, and expenses incurred, before the date of the order appointing counsel.
  - (2) If the court determines that the person has the ability to pay all or a portion of the sum, the court shall order the conservator of the estate or, if none, the person, to pay in any installments and in any manner the court determines to be reasonable and compatible with the person's financial ability.
  - (3) In a proceeding under Chapter 3 (commencing with Section 3100) of Part 6 for court authorization of a proposed transaction involving community property, the court may order payment out of the proceeds of the transaction.
  - (4) If a conservator is not appointed for the person furnished legal counsel, the order for payment may be enforced in the same manner as a money judgment.
- (b) If the court determines that a person furnished private counsel under Section 1471 lacks the ability to pay all or a portion of the sum determined under paragraph (1) of subdivision (a), the county shall pay the sum to the private counsel to the extent the court determines the person is unable to pay.
- (c) The payment ordered by the court under subdivision (a) shall be made to the county if the public defender has been appointed or if private counsel has been appointed to perform the duties of the public defender and the county has compensated that counsel. In the case of other court-appointed counsel, the payment shall be made to that counsel.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
1	Ms. Magany Abbass Attorney and Counselor at Law Law Offices of Magany Abbass Orinda, California	AM	N	<p>Agree with proposed changes if modified.</p> <p>I believe it would be a greater public service to allow attorneys without prior experience to practice with a mentor on their first 3 cases. Otherwise, there would not be any new blood in this area. The burn out rate is high and the cases are emotionally draining.</p> <p>Attorneys wishing to gain knowledge in this area would have a fair chance at doing so without peril to the public and could also provide a sorely needed public service.</p> <p>Another idea is to form a panel of mentor attorneys to assist the newer attorneys after their 3 cases are over thus preventing burn out for the mentors as well.</p>	<p>This comment addresses the provisions of rule 7.1101, adopted by the Judicial Council effective January 1, 2008, rather than the contents of proposed form GC-010. The advisory committee will consider this recommendation on its merits at a later time, but the form it recommends for adoption in this proposal must be directed at the rule of court as adopted by the council.</p>
2	Ms. Grace Andres Court Services Program Manager Superior Court of Solano County Fairfield, California	AM	N	<p>Agree with proposed changes if modified.</p> <p>1. Box for “Court Use” should be larger to accommodate file stamp.</p> <p>2. Move language (check all boxes that apply) above #3 and remove ().</p>	<p>1. The proposed form is not to be placed in a case file. A file stamp should not be necessary.</p> <p>2. Placement of this instruction in the opening line of text in the form (after the “Notice to Attorneys” text box) makes it unnecessary to give it more than once. The use of parentheses is part of the standard format for instructions.</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Advisory Committee Response
				<p>3. Item No. 4—Probate Code section 1470 does not specify appointment of Public Defender in guardianship cases. It specifies appointment of private counsel only. Section 1471 specifies appoint of the Public Defender in conservatorship cases only. This is confusing. Should the Public Defender be appointed to represent minors in guardianship cases?</p>	<p>3. Stats 2007, ch. 719 (Senate Bill 241), § 1 added the following new paragraph (3) to Probate Code section 1470(c), effective January 1, 2008:</p> <p>“(3) If a ward or proposed ward is furnished legal counsel for a guardianship proceeding, upon its own motion or that of a party, the court shall determine whether a parent or parents of the ward or proposed ward or the estate of the ward or proposed ward is financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section. Any portion of the cost of that counsel that the court finds the parent or parents or the estate of the ward or proposed ward is unable to pay shall be paid by the county. The Judicial Council shall adopt guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.”</p> <p>The public defender is not mentioned in amended section 1470, but appellate opinions</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Advisory Committee Response
				<p>4. The forms should be mandatory.</p> <p>5. Naming the insurer and the amount of insurance should be required if it is the court's</p>	<p>support the appointment of the public defender for indigent minors in guardianships and conservatees in probate conservatorships under section 1470 notwithstanding the express language of the section. See <i>Guardianship of Elan E.</i> (2000) 85 Cal.App.4th 998, 1001–1002 (indigent minor in probate guardianship); <i>Conservatorship of Berry</i> (1989) 210 Cal.App.3d 706, 722–724 (indigent conservatee). See also, Government Code sections 27706(d), 27707 (duties of the public defender).</p> <p>The county has always been responsible for the cost of appointed counsel under section 1470. The clear provision to that effect in amended section 1470(c) is likely to encourage counties to offer their public defenders for appointments in probate guardianships.</p> <p>4. The form is proposed as a mandatory form.</p> <p>5. The advisory committee has modified the form to call for the</p>

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**Probate: Qualifications of Counsel for Appointment in Conservatorships and Guardianships (adopt form GC-010)**

	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
				responsibility to ensure compliance.	name of the insurer, but it believes that asking for the amount of coverage is unnecessary. Rule 7.1101 requires only a minimum level of coverage. The attorney certifies that he or she is or is not covered to the extent of the minimum required. That should be sufficient... The court has authority to inquire further if it is concerned about insurance issues.
3	Hon. Aviva K. Bobb Judge of the Superior Court, County of Los Angeles Los Angeles, California	AM	N	<p>1. The form should be mandatory to standardize reporting requirements statewide.</p> <p>2. Subparagraphs 3.a. and 5.e. should require that attorneys report to the court, in writing and within a specific time frame, any State Bar disciplinary proceedings and changes in professional liability insurance occurring after the filing of the form.</p> <p>3. Subparagraph 3b(2) – should strike the</p>	<p>1. The form as proposed is a mandatory form.</p> <p>2. This proposed language may be beyond the scope of rule 7.1101, and thus should not be included in the form. The courts are certainly permitted to require counsel appointed by them to provide updated information on State Bar discipline and professional liability insurance. The advisory committee will consider this comment as a recommendation to amend rule 7.1101 at a later time. See also, the committee’s response to paragraph 4 of this comment below.</p> <p>3. The item has been rewritten to</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
				<p>language “and this court’s local rules”.</p> <p>4. Should the form include a section covering the mandatory continuing legal educational requirements to be reported beginning 1/1/09?</p>	<p>read “I am qualified for appointment to represent children in juvenile dependency proceedings under local court rules required by rule 5.660 of the California Rules of Court. This language comes from rule 5.660(a), which requires courts to amend their local rules by January 2002 to make certain provisions about representation of juveniles in dependency proceedings, including establishment of minimum standards of experience, training, and education of attorneys representing parties in those matters.</p> <p>4. The advisory committee will propose a one-page education certification form for this purpose so the qualification form does not have to be filed and refiled yearly. The committee will also consider adding requests for updated information on State Bar discipline and professional liability insurance coverage to the new form.</p>
4	Ms. Christine N. Carlson Staff Attorney	AM	N	Agree with proposed changes if modified.	

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	Commentator	Position	Comment on behalf of group?	Comment	Advisory Committee Response
	Superior Court of Solano County Fairfield, California			<p><u>Changes to the Form</u> The new rule requires appointed counsel in guardianship and conservatorship cases to certify that they are qualified for the appointment by meeting specific experience and educational criteria. Although the proposed form complies with the new rule, it does not comply with Probate Code section 1470.</p> <p>Probate Code section 1470 specifically provides only for the appointment of <u>private legal counsel</u> to represent conservatees, proposed conservatees, minor wards, and proposed minor wards in probate proceedings. There is no authority per Probate Code section 1470 to appoint the public defender in any of those cases. Probate Code section 1471 does permit the appointment of the public defender in certain probate cases, all of which are statutorily limited to conservatorship or other similar proceedings and does NOT include guardianships. Probate Code §1471(a).</p> <p>Given the above, I believe it is inappropriate for the form to contain a provision requiring a public defender to certify their qualifications for appointment in guardianship cases. I therefore recommend the following modifications to the form:</p> <p>1) Delete section 4(a) in its entirety:</p>	<p>Stats 2007, ch. 719 (Senate Bill 241), § 1 added the following new paragraph (3) to Probate Code section 1470(c):</p> <p>“(3) If a ward or proposed ward is furnished legal counsel for a guardianship proceeding, upon its own motion or that of a party, the court shall determine whether a parent or parents of the ward or proposed ward or the estate of the ward or proposed ward is financially unable to pay all or a portion of the cost of counsel appointed pursuant to this section. Any portion of the cost of that counsel that the court finds the parent or parents or the estate of the ward or proposed ward is unable to pay shall be paid by the county. The Judicial Council shall adopt</p>

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	Commentator	Position	Comment on behalf of group?	Comment	Advisory Committee Response
				<p>2) Delete the reference to Probate Code section 1470 in the second line of section 4(b); and,                      3) Delete the words “or minors in guardianships” in the second line of section 5(d).</p>	<p>guidelines to assist in determining financial eligibility for county payment of counsel appointed by the court pursuant to this chapter.”</p> <p>The public defender is not mentioned in amended section 1470, but appellate opinions support the appointment of the public defender for indigent minors in guardianships and conservatees in probate conservatorships under section 1470 notwithstanding the express language of the section. See <i>Guardianship of Elan E.</i> (2000) 85 Cal.App.4th 998, 1001–1002 (indigent minor in probate guardianship); <i>Conservatorship of Berry</i> (1989) 210 Cal.App.3d 706, 722–724 (indigent conservatee). See also, Government Code sections 27706(d), 27707 (duties of the public defender).</p> <p>The county has always been responsible for the cost of appointed counsel under section 1470. But the clear provision to that effect in the amended section 1470(c) is likely to encourage counties to offer their public</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
				<p><u>Adoption or Approval of Form</u> For state-wide consistency, I believe the form should be adopted as a mandatory form.</p> <p><u>Identification of Liability Insurance</u> The new rule indicates that the professional liability insurance must be “satisfactory to the court.” I’m not sure what information would be needed by each court in order to make this determination. I suggest that the form include a space for the attorney to indicate the name of their insurance carrier, but it is not necessary to require the inclusion of a certificate of insurance.</p>	<p>defenders for appointments in probate guardianships.</p> <p>The form is proposed as a mandatory form.</p> <p>The advisory committee has revised the form to request the name of the insurer or self-insurance program providing liability coverage for the attorney. The revised form does not call for a certificate of insurance or other evidence of coverage.</p>
5	Mr. Edward J. Corey, Jr. Advisor Trust and Estates Section State Bar of California Sacramento, California	A	Y	Agree with proposed changes.	No response necessary.
6	Mr. Paul T. Gaulke Hromadka & Gaulke Attorneys at Law	A	N	Agree with proposed changes.	No response necessary.

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
	Los Angeles, California				
7	Mr. Edward W. Goodson Attorney Trust & Probate Law Group San Ramon, California	AM	N	<p>Agree with proposed changes if modified. I am very impressed with this proposal, except with respect to re-appointment of counsel for minors.</p> <p>In two guardianship cases in Contra Costa County, I was re-appointed counsel years after being relieved of further duties to the minors. Since I no longer practice guardianship law, and had not for several years, these re-appointments (apparently) would not have been possible under the proposal.</p> <p>In one of the cases, a 13-year-old girl with whom I had not had contact since I represented her 5 years before, called me from school, crying on her friend's cell phone, describing her plight, which was much like Harry Potter's at the Dursleys. By the end of the week I had been reappointed as her counsel, and the court had moved her to a new temporary guardian's home. It was one of my proudest moments as an attorney, made even better when this temporary guardian became her new guardian.</p> <p>If you have not already done so, please give the court the discretion to re-appoint counsel for minors in existing cases, if the court finds it in the minor's best interest.</p>	<p>This comment addresses the provisions of rule 7.1101, adopted by the Judicial Council effective January 1, 2008, not the contents of proposed form GC-010. The advisory committee will consider this recommendation on its merits at a later time, but the form it recommends for adoption in this proposal must be directed at the rule of court as adopted by the council.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
8	Hon. Mary Ann Grilli Judge of the Superior Court of Santa Clara County, San Jose, California	AM	N	<p>Agree with proposed changes if modified. I would suggest that the continuing education requirements that are required starting in 2009 be mentioned on the form and that the boxes for those requirements be on the form now. That way, the form would not necessarily need to be revised again in 2009.</p> <p>In reviewing the new form for comment re the appointment of counsel in guardianships and conservatorships, I had a chance to take a look at the underlying rule. When I reviewed it, I wondered if the issue of how new counsel obtain the requisite experience was discussed. For example, the rule requires representation of three wards or meets the requirements for appointment of counsel in family or juvenile cases. If, for example, someone has had two such appointments, how could they get the third under the rule? I was wondering if some sort of</p>	<p>The committee believes that a simple one-page separate form for the education certification is preferable to adding the continuing education element to the qualification-certification form. The committee believes this alternative is better than requiring attorneys to submit and courts to retain four-page qualification forms every year, most of the information in which would not change from year to year. Rule 7.1101 does not require yearly recertification of the initial qualifications for appointment.</p> <p>This comment addresses the provisions of rule 7.1101, adopted by the Judicial Council effective January 1, 2008, not the contents of proposed form GC-010. The advisory committee will consider this recommendation on its merits at a later time, but the form it recommends for adoption in this proposal must be directed at the rule of court as adopted by the council.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment on behalf of group?</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
				mentoring or other option might be considered in order to be able to bring in newer attorneys. Alternatively, if someone had done a number of guardianships representing the guardian, as the conservatorship rule allows, that might help as well.  Please let me know if this is something that has already been discussed and, if not, whether it is something that the committee might consider.	
9	Ms. Lorraine Dias Herbon Administrative Services Officer II Superior Court of Sacramento County	A	Y	We have reviewed the proposal and have no comments at this time.	No response necessary.
10	Mr. Samuel D. Ingham III Attorney Law Offices of Samuel D. Ingham III Beverly Hills, California	A	N	Agree with proposed changes.	No response necessary.
11	Ms. Cheryl Kanatzar Deputy Executive Officer Superior Court of Ventura County Ventura, California	A	N	Agree with proposed changes.  I feel the form should be mandatory in order to track which attorneys have been certified.  Adding specific insurance information to the form is not necessary.	The form is proposed as a mandatory form.  The advisory committee has revised the form to call for the name of the attorney's professional liability insurer or self-insurance program.
12	Hon. Suzanne N. Kingsbury Presiding Judge of the Superior Court of El Dorado County South Lake Tahoe, California	AM	N	Agree with proposed changes if modified.  As the former chair of the council's Rules and Projects Committee, I supported this proposal in	This comment addresses the provisions of rule 7.1101, adopted

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				concept. While it is crucial for clients in these proceedings to have competent and well qualified counsel, many larger rural courts simply do not have a sufficient number of attorneys practicing in the area of probate who would qualify for appointment under this proposed rule. Even though the proposal creates an exemption for courts with less than four authorized judicial positions, I am concerned that courts with more than four judicial officers may also have difficulty meeting the requirements of the rule. For example, while there are a fair number of probate attorneys practicing in the western portion of our county, their practice area doesn't include the eastern portion of the county due to the distance between the courthouses and the often difficult travel conditions in the winter months. I would suggest modifying the rule to allow the presiding judge, in courts with multiple sites and with less than ten judicial officers, the opportunity to appoint an attorney with less years of experience if no other qualified attorney is available.	by the Judicial Council effective January 1, 2008, not the contents of proposed form GC-010. The advisory committee will consider this recommendation on its merits at a later time, but the form it recommends for adoption in this proposal must be directed at the rule of court as adopted by the council.
13	Legal Research Department Superior Court of San Bernardino County San Bernardino, California	A	N	Agree with proposed changes.  The Invitation to Comment requests comments on an earlier draft that required the attorney to provide the identity of his insurer and a	The advisory committee restored the earlier draft's request for the name of the attorney's professional

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				certificate or insurance or other evidence of coverage. This requirement was deleted as unnecessary. The probate legal research attorneys agree that the information is unnecessary since the form must be signed under penalty of perjury.	liability insurer or self-insurance program but did not restore the earlier draft's request for provision of a certificate of insurance or other evidence of coverage. The committee believes the latter is unnecessary, in light of the attorney's certification.
14	Ms. Tina Rasnow Senior Attorney Superior Court of Ventura County SHLA Center Ventura, California	A	Y	Agree with proposed changes.	No response necessary.
15	Mr. Michael Roddy Executive Officer Superior Court of San Diego County San Diego, California	A	Y	Agree with proposed changes. No additional comments.	No response necessary.
16	Superior Court of Los Angeles County Los Angeles, California	AM	Y	Agree with proposed changes only if modified.  Comments:  1. Attorneys should not be required to include the identity of their professional liability insurance carrier or other evidence of coverage. It is sufficient that the form requires the attorney's declaration under penalty of perjury that he/she is covered by professional liability insurance in the amounts required under rule 7.1101.	1. The advisory committee agrees with this comment in part. It has restored an earlier draft form's request for the name of the attorney's professional liability insurer, but did not restore the earlier draft's request for delivery of a certificate of insurance or other

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				<p>2. Appears subparagraph 3c(2)(A) is incomplete and should state: “Represented petitioners for the appointment of a conservator at commencement of three probate conservatorship proceedings, from initial contact with the petitioner through the hearing and issuance of Letters of Conservatorship.”</p> <p>3. The language “but do not check the box for item 3” appearing in subparagraphs 4.a.(1) and 4.b.(1) does not appear to be necessary.</p> <p>4. Question whether attorneys can be required, upon the court’s demand, to provide copies of clients’ estate planning documents. Because of confidentiality issues, attorneys may be prohibited from providing copies without the client’s express consent.</p>	<p>evidence of coverage.</p> <p>2. The advisory committee agrees with this comment and has made the requested change.</p> <p>3. This admonition is placed in the form to reduce the possibility of confusion caused by deputy public defenders who qualify based on their private practice experience. These attorneys are called upon to fill out portions of the form directed to attorneys in private practice, but not to classify themselves as private practice attorneys by checking the box for item 3.</p> <p>4. This is a legitimate concern. The advisory committee has added the word “redacted” to the phrase “copies of the estate planning documents prepared” in both places where the attorney agrees to provide estate planning documents to the court on request.</p>

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17	Mr. Joseph C. Tinney Lounibos, Lounibos, & Tinney Attorneys at Law Petaluma, California	N	N	I have been practicing law for forty years, and I have watched with dismay as the State of California increasingly harasses conservatees and their families with bureaucratic nonsense, under the guise of protecting them. This is just one more sorry example. Very few probate attorneys will even do conservatorships any longer. What is happening is that the poor conservatee and his/her estate is being depleted by the time and expense necessary to comply with the increasing demands put on conservatorships by the State.	The advisory committee cannot respond to this comment because it is not directed at the specifics of rule 7.1101 or the proposed form. The comment appears to be directed to the 2006 legislation that mandated development of qualifications and continuing education requirements for appointed counsel in conservatorships and guardianships, and that led directly to the rule and the form.
18	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee (TCPJAC/CEAC ) Joint Rules Working Group	AM	Y	Agree with the proposed changes if modified.  The TCPJAC/CEAC Joint Rules Working Group recommends that form GC-010 be adopted for optional, not mandatory use by the courts.	The form is proposed as a mandatory form, but may be augmented by local requirements, including an application or other supplemental local form. (See rule 7.1101(g).) The qualifications described in the form apply under rule 7.1101 throughout the state; the basic qualifications required by the rule should be addressed by a mandatory form to be used by all attorneys seeking to be appointed by the courts in conservatorships and guardianships.  Rule 1.35, concerning optional Judicial Council forms, provides that the option to use an optional

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					form rests with the form’s user, in this case the certifying attorney, not with the court. The court’s authority to modify an optional Judicial Council form and require use of the modified form is no greater than its authority to modify a mandatory form. In the case of either type of form, the court has no such authority. (Compare rules 1.31(e) and 1.35(e).)
19	Ms. Sarah Waters Court Program Manager Superior Court of Ventura County Ventura, California	A	N	Agree with proposed changes.  I feel the forms should be mandatory in order to track attorneys that have been certified.  I do not feel insurance information needs to be included on the form.	The form is proposed as a mandatory form.  The advisory committee has revised the form to request the name of the attorney’s professional liability insurer, but did not restore an earlier draft’s request for a certificate of insurance or other evidence of coverage.