

**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: February 20, 2006

SUBJECT: Probate: Forms for Private Professional Guardians and Conservators  
to Show Their Qualifications and Compliance with Continuing  
Education Requirements (adopt forms GC-005 and GC-006)  
(Action Required)

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Issue Statement

The Judicial Council adopted rules 7.1010 and 7.1060 of the California Rules of court, effective January 1, 2006. These rules establish the qualifications and continuing education requirements for private professional guardians (rule 7.1010) and conservators (rule 7.1060).

Private professional guardians and conservators must file annual information statements with appointing courts. (Prob. Code, § 2342(a).) Under rules 7.1010 and 7.1060 these fiduciaries must demonstrate in their information statements filed in 2006 that they meet the qualifications under the rules and, beginning with statements filed after 2007, that they have completed the continuing education required of them in the prior calendar year.<sup>1</sup>

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective July 1, 2006, adopt form GC-005, *Declaration of Private*

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<sup>1</sup> See rules 7.1010(h)(1) and (h)(2)(A) and 7.1060(h)(1) and (h)(2)(A). The continuing education requirements will be effective beginning in 2007. Beginning with the first statement due in 2008, annual information statements will be required to show completion of continuing education during the preceding calendar year. (Cal. Rules of Court, rules 7.1010(e)(1) and 7.1060(e)(1).) The full text of rules 7.1010 and 7.1060 is attached at pages 13–34 of this report.

*Professional Conservator or Guardian—Qualifications* and form GC-006, *Declaration of Private Professional Conservator or Guardian—Continuing Education*.

Copies of the proposed forms are attached at pages 7–12.

#### Rationale for Recommendation

Proposed forms GC-005 and GC-006 would provide a uniform and consistent way for private professional guardians and conservators to meet their reporting obligations under the new rules of court.

#### *Declaration regarding qualifications (form GC-005)*

This form would ask for a professional fiduciary’s basic contact information and, in item 3, request the personal information that is commonly used by law enforcement personnel to request a criminal history background check from the California Department of Justice or the Federal Bureau of Investigation.<sup>2</sup>

Item 4, at pages 2 and 3 of the form, states the five ways of qualifying as a private professional guardian or conservator under rules 7.1010(b)(2)(A)–(E) and 7.1060(b)(2)(A)–(E). The fiduciary would be required to demonstrate that he or she qualifies in at least one of these ways. The fiduciary would also be required to provide information about his or her qualifying history, including the college or university attended, the employer and positions held, and the names of the cases and courts where he or she has been appointed and acted as a fiduciary.

Item 5 would require fiduciaries to affirm that they have not committed the criminal or civil misconduct that would disqualify them from being able to serve or continue to serve under rules 7.1010(b)(4) and 7.1060(b)(4).

Under rules 7.1010(h)(1) and 7.1060(h)(1), private professional guardians and conservators would be required to file this form annually with every year’s information statement. But most of the qualification information would not change from year to year. Item 2 of form GC-005 would address that situation by permitting a professional fiduciary to check the item and not respond to the following items (except items 5 and 8) if the information requested in those items has not changed from that provided in a prior qualification statement. Because the information statement, including a signed copy of the form, must be completed and filed annually, the form would provide a new sworn statement every year to reaffirm statements made in prior years.

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<sup>2</sup> A criminal record background check is mandatory under Probate Code section 2342(c).

Item 6 would identify professionals who must attend a course in professional fiduciary management—that is, all professionals who qualify for appointment under four of the five tracks identified in item 4 but do not have the requisite pre-2006 experience as a practicing California professional fiduciary (item 4c). Item 7 applies to fiduciaries appointed before 2006 who do not satisfy any of the qualification tracks under the rules but desire to keep serving in all or some of their current matters under conditions set by the court. (See rules 7.1010(d)(2)(A) and 7.1060(d)(2)(A).)

Item 8 is for a professional to respond to requests for information from any appointing court that are not covered in the form. The response is to be in the format required by the court—in a local form, for example—or submitted as an attachment to form GC-005.<sup>3</sup>

*Declaration regarding continuing education (form GC-006)*

This two-page form would be required as part of each annual statement filed by professional guardians and conservators after 2007, when the continuing education requirements of the new rules will commence. The form would require the professional to identify each education provider and the subject of each course taken and show in which of the subject-matter categories required by rules 7.1010(e)(2) and 7.1060(e)(2) the course fits.

The instructions on page 1 would remind professional fiduciaries that they must retain continuing education certificates or other proof of attendance at each course for a period of three years after the year in which the course was taken. (See rules 7.1010 (h)(2)(B) and 7.1060(h)(2)(B).)

Both proposed forms are unusual in that they provide space for each court to place its seal and address. These forms are statewide mandatory forms, but they are intended to be produced by each court and provided to professional guardians. Both forms are also confidential. (See Prob. Code, § 2342(d), concerning confidentiality of annual information statements filed with courts.)

Alternative Actions Considered

No alternatives to the adoption of Judicial Council forms to show compliance with rules 7.1010 and 7.1060 were considered. The advisory committee considered proposing the adoption of a comprehensive information statement form, but

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<sup>3</sup> Form GC-005 is intended to show compliance with rules 7.1010 and 7.1060; it does not request all of the information required in an annual information statement by Probate Code section 2342(a) and it is not offered as a replacement for local annual information statement forms. The advisory committee understands that courts currently require disclosure of additional information not mentioned in section 2342, and that there is considerable variation between courts in the information requested and the forms adopted by them for information statements.

concluded that such a proposal would require more study and could not be completed in time for presentation to the council for action effective July 1, 2006. The committee decided to proceed immediately with this more limited proposal to provide the courts with a means to enforce the new rules of court as soon as possible after their adoption.

#### Comments From Interested Parties

This proposal was circulated for comment to a special list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters, and probate-interest sections of the State Bar and local bar associations in addition to the AOC's standard list of interested court executives, individuals, and organizations. The proposal was also submitted to the Joint Rules Subcommittee of the Judicial Council's Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee.

Attached at pages 35–44 is a chart showing the comments received and the advisory committee's responses. Sixteen comments were received.

Nine commentators agreed with the proposal without specific comments. One commentator, the State Bar's Standing Committee on the Delivery of Legal Services, did request that rules 7.1060 and 7.1010 be amended to require specific expertise in certain estate-management subjects. This organization did not comment on the proposed forms.

Five of the six remaining commentators approved of the forms if modified. One commentator, Judge Kathleen R. O'Conner of the Superior Court, Yuba County, did not approve of proposed form GC-005.

Judge O'Conner raises two objections to that form. The first is to the provision in item 2 that would permit a declarant to avoid restating information each year that had not changed from prior years' statements. The advisory committee does not believe any change to the form is necessary because the form as drafted would require disclosure of information that had changed from prior years and provide an annual sworn reaffirmation of unchanged information. An annual restatement of unchanged information, such as prior appointments, education, and employment, would be an unnecessary burden imposed on fiduciaries and would increase storage requirements and costs on the courts that receive, file, and maintain these statements.

Judge O'Conner's second objection is that item 5 of form GC-005, concerning fiduciary misconduct, does not require disclosure of court sanctions, including contempt citations, against a professional fiduciary. The advisory committee believes that item 5 of the form should not be changed because a court sanction or

contempt citation short of removal or surcharge is not a ground for disqualification under rules 7.1010 and 7.1060. The advisory committee believes that disclosure of sanctions and contempt citations might be a good idea but that local courts should determine whether to require such disclosures. If they do, the fiduciary's response would be provided in item 8 of the proposed form.

Private attorney Fatima Evans requests that check boxes and references to continuation attachments be added to items 4a(2)(b) and 4b(2)(b) on pages 2 and 3, and that check boxes be added to items 5a, 5b, and 5c on page 3 of form GC-005. The advisory committee agrees with these requests and has made these changes. Ms. Evans also recommends that liability for elder or dependent adult abuse be added to the list of civil misconduct of a fiduciary in item 5b. The advisory committee believes this is a good idea but recommends against changing the form at this time because this addition would extend disqualifying misconduct beyond the current limits of rules 7.1010 and 7.1060.

Ms. Tressa S. Kentner, the executive officer of the Superior Court of San Bernardino County, recommends that form GC-006 be modified to require a private professional who is both a professional conservator and a professional guardian to specify which continuing education topics apply to guardians and which to conservators. The advisory committee believes that this change is unnecessary because the subjects of the courses taken, which must be stated, should indicate which courses are for guardians and which are for conservators.

Ms. Kentner also recommends that the phrase "that meets the requirements of rule 7.1060 or 7.1010" be added to item 2 on page 2, concerning authorized self-study, to conform this item to the following item 3, concerning hours as a continuing education instructor. The advisory committee agrees with this recommendation and has made this change.

Ms. Sandra R. Riley, supervising probate attorney of the Superior Court of Los Angeles County, requests that the second and subsequent pages of forms GC-005 and GC-006 be modified to provide a place for the declarant's name. The advisory committee agrees with this recommendation. Space for the declarant's name has been added to the caption at the top of each page following the first page of both forms.

The Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee reviewed, discussed, and approved these forms at its meeting on January 18, 2006.

### Implementation Requirements and Costs

These forms will incur the normal costs associated with the creation and distribution of any new or revised Judicial Council form. To the extent that courts produce the forms with their seals and addresses added, they will incur greater costs than would ordinarily be the case with adoption of new forms. These costs are expected to be minor, as there are currently less than 1,000 private professional guardians and conservators who will be required to use the forms.

### Attachments

|  |  |
|--|--|
| <p><b>SUPERIOR COURT OF CALIFORNIA,<br/>COUNTY OF</b></p> <p>(Space for court seal,<br/>if desired) <span style="margin-left: 200px;">(Space for court address)</span></p> | <p><i>FOR COURT USE ONLY</i></p> <hr/> <p>FILE NUMBER:</p> |
|--|--|

**DECLARATION OF PRIVATE PROFESSIONAL  CONSERVATOR  GUARDIAN  
CONCERNING QUALIFICATIONS FOR APPOINTMENT**

**NOTICE:** Beginning with the first statement due after January 1, 2006, each private professional conservator or guardian, as defined in Probate Code section 2341 and rules 7.1060(a)(6) (conservators) and 7.1010(a)(5) (guardians) of the California Rules of Court, must demonstrate, under penalty of perjury, in each annual information statement filed with an appointing court his or her qualifications to serve or continue to serve as a conservator or guardian under rules 7.1060(b) or 7.1010(b). Demonstrate your qualifications by completing and signing this form and filing it with this court as part of your annual information statement. One declaration is sufficient if you are both a private professional conservator and a private professional guardian.

**This court may require you to furnish additional information in your annual statement. If so, check item 8 of this form and provide the additional information in the manner required by the court or, if no specific manner is required, in Attachment 8 to this form.**

Beginning with the first statement due after December 31, 2007, each annual information statement filed with an appointing court by a private professional conservator or guardian must also show compliance with the continuing education requirements of rules 7.1060(e) or 7.1010(e) for the previous calendar year. (Cal. Rules of Court, rules 7.1060(h)(2)(A) and 7.1010(h)(2)(A).) Complete and file a *Declaration of Private Professional Conservator or Guardian—Continuing Education* (form GC-006) with your annual information statement for that purpose.

Declarant (*name*): \_\_\_\_\_ states as follows:

**1. Contact information** (*complete in all cases*):

- a. Name: \_\_\_\_\_  
Business or firm name: \_\_\_\_\_
- b. Business Address: \_\_\_\_\_  
  
City: \_\_\_\_\_ County: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ +
- c. Mailing Address: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ +
- d. E-mail: \_\_\_\_\_
- e. Telephones: \_\_\_\_\_  
Day: \_\_\_\_\_ Night: \_\_\_\_\_ Fax: \_\_\_\_\_ Cell (*optional*): \_\_\_\_\_

**2.  Previous qualifications declaration filed** (*If you check and complete this item, you may disregard all following items (except items 5 and 8) requesting information that is unchanged from your prior declaration. In all cases, complete the signature information and sign at the bottom of page 4 of this form.*)

On (*date*): \_\_\_\_\_ I filed with this court a completed *Declaration of Private Professional Conservator or Guardian—Qualifications* (form GC-005). Except as otherwise stated in this declaration, each of the statements made in that declaration are still true and correct as of the date of this declaration. All information requested of me in this declaration was provided by me in that previously filed declaration.

**3.  Personal information** (*complete unless item 2 applies*):

- a. Date of birth: \_\_\_\_\_ Current age: \_\_\_\_\_ b. Height: \_\_\_\_\_ c. Weight: \_\_\_\_\_ d. Eye color: \_\_\_\_\_
- e. California driver's license or DMV identification: \_\_\_\_\_ f. Social security number: \_\_\_\_\_

|   |              |
|---|--------------|
| DECLARATION OF PRIVATE PROFESSIONAL <input type="checkbox"/> CONSERVATOR <input type="checkbox"/> GUARDIAN<br>(Name): | FILE NUMBER: |
| CONCERNING QUALIFICATIONS FOR APPOINTMENT   |              |

4.  **Education and experience** (Complete unless item 2 applies. You must show that you have satisfied at least one of items 4a through 4e. Check all that apply. If you do not satisfy item 4c, you must also complete item 6.)

I have:

a.  (1) A four-year undergraduate degree or equivalent from the following institution, an accredited educational institution within the meaning of rule 7.1060 or 7.1010 (name of college or university):

Degree (describe):

Date awarded:

(2) AND one or more of the following:

(a)  A minimum of two years' employment experience in a position and with an entity described in rule 7.1060(b)(2)(A)(i) or 7.1010(b)(2)(A)(i), as follows:

Employer (name and type of entity or firm):

Position and responsibilities (describe):

Inclusive dates of employment:

Continued on Attachment 4a(2)(a).

(b)  A minimum of two years' experience as a court-appointed conservator or guardian of the person or estate of an adult or a minor, as follows:

Appointing court (name of court, and state and county or other district designation):

Case number:

Inclusive dates of appointment:

Name of conservatee or ward:

Continued on Attachment 4a(2)(b).

(c)  A certificate as a paralegal from an accredited educational institution and a minimum of two years' employment as a paralegal with a primary emphasis in a probate-related area of practice, as follows:

Certifying institution (specify):

Employer (name):

Paralegal duties (describe):

Inclusive dates of employment:

Continued on Attachment 4a(2)(c).

b.  (1) A two-year undergraduate degree or equivalent in a behavioral science, or in business, nursing, or accounting from the following institution, an accredited educational institution within the meaning of rule 7.1060 or 7.1010 (name of college or university):

Degree (describe):

Date awarded:

(2) AND one or more of the following:

(a)  A minimum of five years' employment experience in a position and with an entity described in rule 7.1060(b)(2)(A)(i) or 7.1010(b)(2)(A)(i), as follows:

Employer (name and type of entity or firm):

Position and responsibilities (describe):

Inclusive dates of employment:

Continued on Attachment 4b(2)(a).



|   |              |
|---|--------------|
| DECLARATION OF PRIVATE PROFESSIONAL <input type="checkbox"/> CONSERVATOR <input type="checkbox"/> GUARDIAN<br>(Name): | FILE NUMBER: |
| CONCERNING QUALIFICATIONS FOR APPOINTMENT   |              |

6.  **Certificate in professional fiduciary management** (Unless item 2 applies, you must complete this item if you qualify for appointment under item 4a, 4b, 4d, or 4e of this form, but not under item 4c [prior experience as an appointed conservator or guardian in California in 10 matters within five years before January 1, 2006].)

a.  I have completed an educational program in professional fiduciary management for guardians or conservators approved by the California Administrative Office of the Courts and have received a certificate or its equivalent.

- (1) Educational institution:
- (2) Certificate received:
- (3) Date completed:

b.  **(Calendar year 2006 only)** I will complete an educational program in professional fiduciary management for guardians or conservators approved by the California Administrative Office of the Courts during 2006, and will supplement this declaration with proof of completion before January 1, 2007.

7.  **Pre-2006 appointments as private professional conservator or guardian** (unless item 2 applies, you must complete this item if: (1) you were appointed and qualified as a conservator, or as a guardian of the estate or the person and estate, in one or more matters in this court before January 1, 2006 in your capacity as a private professional conservator or guardian; and (2) you do not qualify as a private professional conservator or guardian under any of the alternatives described in items 4a–4e of this form.)

a. I was appointed and qualified before January 1, 2006 as a private professional fiduciary and am currently acting in the following matters in this court, as a  conservator  guardian of the estate or the person and estate.

| <u>Case Name</u> | <u>Case Number</u> | <u>Dates Appointed and Qualified</u> |
|------------------|--------------------|--------------------------------------|
|------------------|--------------------|--------------------------------------|

- (1)
- (2)
- (3)
- (4)
- (5)

Continued on Attachment 7a.

b.  I would be willing to continue as conservator or guardian of the estate or the person and estate, on conditions approved by the court, in  all of the matters listed in item 7a  the following matters:

| <u>Case Name</u> | <u>Case Number</u> |
|------------------|--------------------|
|------------------|--------------------|

- (1)
- (2)
- (3)

Continued on Attachment 7b.

c. I understand that I cannot be appointed as a private professional conservator or guardian on any new matters in this court until I qualify under one of the alternatives described in items 4a–4e of this form, and that I must ask the court for permission to resign in any pending matter in which I do not desire to remain as conservator or guardian.

8.  **Additional information required by court** Additional information required by this court is  filed with this form  contained in Attachment 8.

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

Dated:

\_\_\_\_\_ \_\_\_\_\_

(TYPE OR PRINT NAME )

(SIGNATURE)

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF

FOR COURT USE ONLY

(Space for court seal,
if desired)

(Space for court address)

FILE NUMBER:

DECLARATION OF PRIVATE PROFESSIONAL [ ] CONSERVATOR [ ] GUARDIAN
CONCERNING CONTINUING EDUCATION FOR THE \_\_\_\_\_ CALENDAR YEAR

NOTICE: Beginning in 2007, each private professional conservator or guardian, as defined in Probate Code section 2341 and rules 7.1060(a)(6) (conservators) and 7.1010(a)(5) (guardians) of the California Rules of Court, must complete a minimum of 15 hours of continuing education each calendar year from authorized providers. (Cal. Rules of Court, rules 7.1060(e) and 7.1010(e).) A minimum of 5 hours each year must be in subjects appropriate for a conservator or guardian of the person, a minimum of 5 hours each year must be in subjects appropriate for a conservator or guardian of the estate, and a minimum of 1 hour per year must be in fiduciary ethics. If you are both a private professional conservator and a private professional guardian, a minimum total of 15 hours of continuing education will satisfy both rules, but you still must satisfy the 5-hour appropriate-subject minimum requirements for both conservators and guardians. You must also satisfy the 5-hour appropriate-subject minimum requirements for conservator or guardian of the person even if you are appointed only as a conservator or guardian of the estate.

Beginning with the first statement due after December 31, 2007, each private professional conservator or guardian must state under penalty of perjury in each annual information statement filed with an appointing court that he or she has complied with the continuing education requirements of rule 7.1060(e) or 7.1010(e) for the previous calendar year. Use this form for that purpose. Complete and sign this form and file it with the court as part of your annual information statement. One declaration is sufficient if you are both a private professional conservator and a private professional guardian.

You must retain certificates of attendance or other proof of participation in continuing education required by rule 7.1060(e) or 7.1010(e) for a period of three years after the end of each calendar year of education completed. This court may at any time during that three-year period require you to produce proof of compliance with the continuing education requirements of these rules for that year, in a manner satisfactory to the court.

Declarant (name): \_\_\_\_\_ states as follows:

1. During calendar year \_\_\_\_\_ I completed a total of (specify): \_\_\_\_\_ hours of continuing education from authorized providers, as follows:

a. Subjects appropriate for a [ ] conservator of the person [ ] guardian of the person:

Table with 3 columns: Provider, Subject, Hours. Multiple rows for listing continuing education subjects and hours.

[ ] Continued on Attachment 1a.

Subtotal hours: \_\_\_\_\_

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**GC-006**

|   |              |
|---|--------------|
| <b>DECLARATION OF PRIVATE PROFESSIONAL</b> <input type="checkbox"/> <b>CONSERVATOR</b> <input type="checkbox"/> <b>GUARDIAN</b><br>CONCERNING CONTINUING EDUCATION<br>(Name): | FILE NUMBER: |
|---|--------------|

1. b. Subjects appropriate for a  conservator of the estate  guardian of the estate (specify):

| <u>Provider</u> | <u>Subject</u> | <u>Hours</u> |
|-----------------|----------------|--------------|
|                 |                | _____        |
|                 |                | _____        |
|                 |                | _____        |
|                 |                | _____        |
|                 |                | _____        |
|                 |                | _____        |

Continued on Attachment 1b.

Subtotal hours: \_\_\_\_\_

c. Fiduciary ethics (specify):

| <u>Provider</u> | <u>Course Title</u> | <u>Hours</u> |
|-----------------|---------------------|--------------|
|                 |                     | _____        |
|                 |                     | _____        |

Continued on Attachment 1c.

Subtotal hours: \_\_\_\_\_

d. **Total hours** (specify, including hours of self-study and service as an instructor):

2.  My continuing education includes \_\_\_\_\_ hours of self-study under the supervision of an eligible continuing education provider that meets the requirements of rule 7.1060 or 7.1010, as follows (specify):

| <u>Provider</u> | <u>Subject</u> |
|-----------------|----------------|
|                 |                |

Continued on Attachment 2.

3.  My continuing education includes \_\_\_\_\_ hours as an instructor in a continuing education course that satisfies the requirements of rule 7.1060 or 7.1010, as follows (specify):

| <u>Provider</u> | <u>Subject</u> |
|-----------------|----------------|
|                 |                |

Continued on Attachment 3.

4. I have certificates of attendance or other proof of participation in the continuing education described above, which I will produce for the court on request.

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

Dated:

|                               |  |                      |
|-------------------------------|--|----------------------|
| _____<br>(TYPE OR PRINT NAME) |  | _____<br>(SIGNATURE) |
|-------------------------------|--|----------------------|

Rules 7.1010 and 7.1060 of the California Rules of Court are adopted, effective January 1, 2006, to read:

**Rule 7.1010. Qualifications and continuing education requirements for private professional guardians**

(a) **[Definitions]** For purposes of this rule:

- (1) An “accredited educational institution” is a college or university, including a community or junior college, accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.
- (2) The term “developmental disability” has the meaning specified in Probate Code section 1420.
- (3) Unless the context otherwise requires, the term “guardian” refers to a guardian of the person, of the estate, or of both, appointed by a court in a guardianship proceeding under Division 4 of the Probate Code (commencing with section 1400).
- (4) A “Lanterman-Petris-Short conservatorship” is a conservatorship of a person who is gravely disabled as the result of a mental disorder or impairment by chronic alcoholism under Welfare and Institutions Code section 5350 et seq.
- (5) The term “private professional guardian” has the meaning specified in Probate Code section 2341(b), including a guardian of one unrelated minor whom an appointing court has required to comply with article 4 of chapter 4 of part 4 of division 4 of that code (commencing with section 2340).
- (6) An “unrelated minor” is a person under the age of majority who is not related to a private professional guardian by blood, marriage, or domestic partnership.

- (b) **[Qualifications for appointment]** Except as otherwise provided in this rule, effective January 1, 2006, a court may not appoint a private professional guardian as guardian of the estate or guardian of the person and estate of an unrelated minor unless on the date of the order of appointment, the private professional guardian:
- (1) Is at least 21 years of age;
  - (2) Satisfies one or more of the following subparagraphs:
    - (A) Has a four-year undergraduate degree or equivalent from an accredited educational institution and one of the following:
      - (i) Two or more years' employment experience in a position with responsibility for the care or management of the persons or estates of children or dependent, developmentally disabled, or mentally ill adults, or supervision of those caring for or assisting them, (1) in a nonprofit corporation or public agency of the federal government or any state, city, or county; (2) in a bank or corporation authorized under the law of any state to engage in the business of a trust company; or (3) in a nonprofit corporation or with a professional fiduciary or organization of professional fiduciaries acting as a court-appointed fiduciary under the law of any state;
      - (ii) Two or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or
      - (iii) A certificate as a paralegal from an accredited educational institution and two or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice.
    - (B) Has a two-year undergraduate degree or equivalent in a behavioral science, business, nursing, or accounting from an accredited educational institution and one of the following:
      - (i) Five or more years' employment experience in a position and with an entity or individual described in (A)(i);

- (ii) Five or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or
  - (iii) A certificate as a paralegal from an accredited educational institution and five or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;
- (C) Has been appointed, qualified, and acted as guardian of the estate or of the person and estate, or as conservator of the person, of the estate, or of both, of 10 or more persons in the state of California in the five-year period immediately preceding January 1, 2006;
- (D) Has a current, active license in good standing, or an inactive license that was current, active, and in good standing within five years of the later of the effective date of this rule or the date of appointment as a private professional guardian and was neither revoked, nor resigned or surrendered with proceedings for revocation pending, to practice one of the following professions in the State of California:
  - (i) Attorney at law,
  - (ii) Certified public accountant,
  - (iii) Educational psychologist,
  - (iv) Licensed clinical social worker,
  - (v) Marriage and family therapist,
  - (vi) Physician or surgeon,
  - (vii) Psychologist, or
  - (viii) Registered nurse; or
- (E) Is one of the following retired judicial officers of a California trial or appellate court:
  - (i) A judge or justice of a trial or appellate court, or

(ii) A commissioner or juvenile court referee who was employed by a court in that capacity on a full-time basis at the time of his or her retirement;

(3) Has either:

(A) Satisfied the requirements of (2)(C), or

(B) Successfully completed a program of education approved by the Administrative Office of the Courts and received a certificate or its equivalent in professional fiduciary management for guardians or conservators; and

(4) Has not:

(A) Been convicted of any felony, or of a misdemeanor involving abuse or neglect of a child or an elderly or dependent adult;

(B) Been determined to be liable in a civil action or proceeding for conversion, embezzlement, fraud, misappropriation, misrepresentation, or theft; or

(C) Been removed as a fiduciary by a court for actions involving breach of fiduciary duty, conversion, fraud, misappropriation, misrepresentation, or theft.

**(c) [Discretionary exception for small counties]**

(1) Notwithstanding any other provision of this rule, a court in a county that has five or fewer private professional guardians or conservators, as determined under (2), who have been appointed as a private professional fiduciary in at least one guardianship or conservatorship matter that is then open and active in that court may, in the exercise of the court's discretion, appoint a private professional guardian who does not meet any of the requirements of (b)(2) and (3) on conditions satisfactory to the court, if the court determines that it is necessary to appoint a private professional guardian in a particular case.

(2) The court must determine the number of private professional guardians or conservators active in its county at the time of the proposed discretionary appointment authorized under (1) by checking the latest annual information statements required by Probate Code section 2342 that are on file with the court as of the date of the proposed appointment, and

reviewing the guardianship or conservatorship matters listed in the statements to confirm their status as open and active on that date.

**(d) [Transitional provisions for qualifications]**

(1) *(Completion of education requirements in 2006)*

- (A) During 2006, the court may, in the exercise of its discretion, appoint as guardian of the estate, or of the person and estate, of an unrelated minor a private professional guardian who does not satisfy the prior experience requirement of (b)(2)(C) or the education requirement of (b)(3)(B) on the date of appointment.
- (B) A private professional guardian appointed under (A) must complete the education requirement of (b)(3)(B) and provide a certificate or other proof of completion satisfactory to the court before January 1, 2007.
- (C) The court must remove a private professional guardian appointed under (A) who fails to timely comply with (B).

(2) *(Guardianships pending on January 1, 2006)*

- (A) The court may, in the exercise of its discretion, permit a private professional guardian who was appointed and qualified as a guardian of the estate, or the person and estate, of an unrelated minor before January 1, 2006, to continue as guardian after that date on conditions approved by the court, although the guardian does not on that date satisfy the qualifications specified in (b)(2)(A)—(E).
- (B) A private professional guardian permitted to continue as guardian under (A) may apply to the court for removal of any conditions imposed by the court at any time after January 1, 2006 that he or she becomes qualified under (b)(2)(A), (B), or (D) and satisfies the education requirement of (b)(3)(B).

**(e) [Continuing education]**

- (1) *(Annual time requirements)* Beginning on January 1, 2007, except as provided in (i) and (j), every private professional guardian must complete during each calendar year a minimum of 15 hours of continuing education from eligible providers under this rule.

- (A) A maximum of 4 of the 15 hours required by this paragraph may be by self-study under the supervision of an eligible continuing education provider that provides evidence of completion.
  - (B) A private professional guardian may complete continuing education courses that satisfy the requirements of this subdivision offered by eligible continuing education providers by means of video presentations or other delivery means at remote locations. Such courses are not self-study within the meaning of this rule.
  - (C) A private professional guardian who serves as an instructor in a continuing education course that satisfies the requirements of this rule may receive 1.5 hours of course participation credit for each hour of course instruction.
- (2) *(Annual subject matter requirements)*
- (A) At least 5 hours of continuing education each year must be in subjects appropriate for a guardian of the person.
  - (B) At least 5 hours of continuing education each year must be in subjects appropriate for a guardian of the estate.
  - (C) At least 1 hour of continuing education each year must be in fiduciary ethics.
- (3) *(Subject matter for guardians of the person)* “Subjects appropriate for a guardian of the person” under (2) include the following:
- (A) Assessment of child abuse issues;
  - (B) Child custody and visitation issues in guardianships;
  - (C) Community resources;
  - (D) Developmental disabilities;
  - (E) Interfamilial relationships and conflict resolution, with emphases on parent-child relationships and on blended and extended families;
  - (F) Interstate issues in guardianships of the person of minors;

- (G) Involuntary mental health evaluation and additional treatment for mentally ill children;
  - (H) Lanterman-Petris-Short conservatorships;
  - (I) Mandatory reporting requirements for child abuse;
  - (J) Medical decision making by guardians;
  - (K) Minors' rights to mental health treatment or counseling services;
  - (L) Probate Code and other California legal requirements for guardianships of the person;
  - (M) Psychological and developmental needs of children;
  - (N) Recognizing and evaluating mental illnesses in children; and
  - (O) Significance of culture and religion in the lives of children.
- (4) *(Subject matter for guardians of the estate)* "Subjects appropriate for a guardian of the estate" under (2) include the following:
- (A) Asset recovery;
  - (B) Court accounting;
  - (C) Economics of fiduciary services;
  - (D) Enforcing a child's right to support;
  - (E) Evaluation of investment securities;
  - (F) Fiduciary liability;
  - (G) Fiduciary office management and technology;
  - (H) Income taxation;
  - (I) Interstate issues in guardianships of the estate of minor children;
  - (J) Investment and other advisors for fiduciaries;

- (K) Liability insurance;
- (L) Litigation by and against guardians;
- (M) Medi-Cal, Supplemental Security Income, and other public benefits;
- (N) Medical insurance;
- (O) Personal property asset management;
- (P) Probate Code and other California legal requirements for probate guardianships of the estate;
- (Q) Prudent Investor Act and authorized investments by guardians;
- (R) Real property asset management;
- (S) Recordkeeping;
- (T) Risk management;
- (U) Settlement of the claim or disposition of the proceeds of a judgment for a minor;
- (V) Special needs trusts; and
- (W) Any subject not listed in this paragraph that is identified as appropriate for a conservator of the estate in rule 7.1060(d)(4).

- (5) *(Continuing education for dual-status private professional fiduciaries)*  
Notwithstanding any other provision of this rule and rule 7.1060, a private professional guardian under this rule who also is a private professional conservator under rule 7.1060 may satisfy the minimum-hours requirements of both rules by completing a total of at least 15 hours of continuing education annually from eligible providers under either rule.

**(f) [Approved eligible continuing education providers]**

- (1) Eligible continuing education providers may include accredited education institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups.

- (2) Effective January 1, 2008, continuing education providers and courses must be approved by the Administrative Office of the Courts.
  - (3) Continuing education completed in calendar 2007 complies with the requirements of this rule if it addresses the subjects required by this rule, is certified for continuing education credit by the provider in accordance with the requirements of subdivision (g), and is provided by:
    - (A) An accredited educational institution;
    - (B) An accountancy organization or a private education provider, if the education qualifies with the California State Board of Accountancy for continuing education credit for renewal of an individual license as a Certified Public Accountant;
    - (C) The Administrative Office of the Courts;
    - (D) The American Bar Association;
    - (E) California Continuing Education of the Bar;
    - (F) A local bar association or private education provider, if the education qualifies with the California State Bar for continuing legal education credit for a member of the California bar;
    - (G) The National Association of Social Workers;
    - (H) The National Guardianship Association; or
    - (I) The Professional Fiduciary Association of California.
- (g) **[Requirements for continuing education providers]** Each continuing education provider must:
- (1) Ensure that the instructors teaching continuing education courses are qualified to teach the subject matter of the courses they teach;
  - (2) Monitor and evaluate the quality of courses, curricula, instructors, and instructor training;
  - (3) Keep records of attendance or self-study and distribute to each participant a certificate of completion that identifies the education provider and

documents the subject taught, the number of hours of education offered, and the number of hours the participant completed; and

(4) Be approved under (f)(2).

**(h) [Proof of compliance]**

(1) (*Qualifications*) Every private professional guardian must demonstrate, under penalty of perjury, his or her qualifications under (b) in his or her information statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after the effective date of this rule and annually thereafter.

(2) (*Continuing education*)

(A) Every private professional guardian must declare, under penalty of perjury, that he or she has complied with the continuing education requirements under (e) for the previous calendar year in his or her annual statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after December 31, 2007, and annually thereafter.

(B) Every private professional guardian must retain certificates of attendance or other proof of participation in continuing education required by this rule for a period of three years after the end of each year of education completed. An appointing court may require a private professional guardian to produce, in a manner determined by the court, proof of compliance with the requirement for any year at any time within that three-year period.

(3) (*Report of noncompliance to the Statewide Registry*) If an appointing court determines that a private professional guardian has failed to comply with the qualification or continuing education requirements of this rule, the court clerk must forward a copy of the court's determination to the Statewide Registry under Probate Code section 2850(d).

(i) **[Waiver of continuing education]** Notwithstanding any other provision of this rule, a court may, on the ground of hardship, waive the continuing education requirements of (e), in whole or in part and under conditions satisfactory to the court, for any private professional guardian appointed by the court.

- (j) **[Exemption of guardians of the person]** Notwithstanding any other provision of this rule, a private professional guardian of the person only of two or more unrelated minors is exempt from the requirements of this rule.

**Rule 7.1060. Qualifications and continuing education requirements for private professional conservators**

(a) **[Definitions]** For purposes of this rule:

- (1) An “accredited educational institution” is a college or university, including a community or junior college, accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.
- (2) Unless the context otherwise requires, the term “conservator” refers to a conservator of the person, of the estate, or of both, appointed by a court in a conservatorship proceeding under division 4 of the Probate Code (commencing with section 1400).
- (3) The term “developmental disability” has the meaning specified in Probate Code section 1420.
- (4) A “Lanterman-Petris-Short conservatorship” is a conservatorship of a person who is gravely disabled as the result of a mental disorder or impairment by chronic alcoholism under Welfare and Institutions Code section 5350 et seq.
- (5) A “limited conservatorship” is a conservatorship of a developmentally disabled adult found by the court to lack the capacity to perform some but not all of the tasks necessary to provide for his or her own personal needs for physical health, food, clothing, or shelter, or manage his or her own financial resources.
- (6) The term “private professional conservator” has the meaning specified in Probate Code section 2341(a), including a conservator of one unrelated person whom an appointing court has required to comply with article 4 of chapter 4 of part 4 of division 4 of that code (commencing with section 2340).
- (7) An “unrelated person” is a person who is not related to a private professional conservator by blood, marriage, or domestic partnership.

(b) **[Qualifications for appointment]** Except as otherwise provided in this rule, effective January 1, 2006, a court may not appoint a private professional conservator as conservator of an unrelated person unless on the date of the order of appointment the private professional conservator:

- (1) Is at least 21 years of age;
- (2) Satisfies one or more of the following subparagraphs:
  - (A) Has a four-year undergraduate degree or equivalent from an accredited educational institution and one of the following:
    - (i) Two or more years' employment experience in a position with responsibility for the care or management of the persons or estates of children or dependent, developmentally disabled, or mentally ill adults, or supervision of those caring for or assisting them, (1) in a nonprofit corporation or public agency of the federal government or any state, city, or county; (2) in a bank or corporation authorized under the law of any state to engage in the business of a trust company; or (3) in a nonprofit corporation or with a professional fiduciary or organization of professional fiduciaries acting as a court-appointed fiduciary under the law of any state;
    - (ii) Two or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or
    - (iii) A certificate as a paralegal from an accredited educational institution and two or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;
  - (B) Has a two-year undergraduate degree or equivalent in a behavioral science, business, nursing, or accounting from an accredited educational institution and one of the following:
    - (i) Five or more years' employment experience in a position and with an entity or individual described in (A)(i);
    - (ii) Five or more years' experience as a court-appointed, qualified, and acting guardian or conservator of the person or estate of a minor or an adult under the law of any state; or
    - (iii) A certificate as a paralegal from an accredited educational institution and five or more years' employment experience as a paralegal with a primary emphasis in probate-related areas of practice;

- (C) Has been appointed, qualified, and acted as guardian of the estate, or of the person and estate, or conservator of the person, of the estate, or of both, of 10 or more persons in the State of California in the five-year period immediately preceding January 1, 2006;
  - (D) Has a current, active license in good standing, or an inactive license that was current, active, and in good standing within five years of the later of the effective date of this rule or the date of appointment as a private professional conservator and was neither revoked, nor resigned or surrendered with proceedings for revocation pending, to practice one of the following professions in the State of California:
    - (i) Attorney at law,
    - (ii) Certified public accountant,
    - (iii) Educational psychologist,
    - (iv) Licensed clinical social worker,
    - (v) Marriage and family therapist,
    - (vi) Physician or surgeon,
    - (vii) Psychologist, or
    - (viii) Registered nurse; or
  - (E) Is one of the following retired judicial officers of a California trial or appellate court:
    - (i) A judge or justice of a trial or appellate court, or
    - (ii) A commissioner or juvenile court referee who was employed by a court in that capacity on a full-time basis at the time of his or her retirement;
- (3) Has either:
- (A) Satisfied the requirements of (2)(C), or

(B) Successfully completed a program of education approved by the Administrative Office of the Courts and received a certificate or its equivalent in professional fiduciary management for guardians or conservators; and

(4) Has not:

(A) Been convicted of any felony, or of a misdemeanor involving abuse or neglect of a child or an elderly or dependent adult;

(B) Been determined to be liable in a civil action or proceeding for conversion, elder or dependent adult abuse or neglect, embezzlement, fraud, misappropriation, misrepresentation, or theft; or

(C) Been removed as a fiduciary by a court for actions involving breach of fiduciary duty, conversion, fraud, misappropriation, misrepresentation, or theft.

**(c) [Discretionary exception for small counties]**

(1) Notwithstanding any other provision of this rule, a court in a county that has five or fewer private professional guardians or conservators, as determined under (2), who have been appointed as a private professional fiduciary in at least one guardianship or conservatorship matter that is then open and active in that court may, in the exercise of the court's discretion, appoint a private professional conservator who does not meet any of the requirements of (b)(2) and (3) on conditions satisfactory to the court, if the court determines that it is necessary to appoint a private professional conservator in a particular case.

(2) The court must determine the number of private professional guardians or conservators active in its county at the time of the proposed discretionary appointment authorized under (1) by checking the latest annual information statements required by Probate Code section 2342 that are on file with the court as of the date of the proposed appointment, and reviewing the guardianship or conservatorship matters listed in the statements to confirm their status as open and active on that date.

**(d) [Transitional provisions for qualifications]**

(1) *(Completion of education requirements in 2006)*

- (A) During 2006, the court may, in the exercise of its discretion, appoint as conservator of an unrelated person a private professional conservator who does not satisfy the prior experience requirement of (b)(2)(C) or the education requirement of (b)(3)(B) on the date of appointment.
- (B) A private professional conservator appointed under (A) must complete the education requirement of (b)(3)(B) and provide a certificate or other proof of completion satisfactory to the court before January 1, 2007.
- (C) The court must remove a private professional conservator appointed under (A) who fails to timely comply with (B).

(3) *(Conservatorships pending on January 1, 2006)*

- (A) The court may, in the exercise of its discretion, permit a private professional conservator who was appointed and qualified as a conservator of an unrelated person before January 1, 2006, to continue as conservator after that date on conditions approved by the court, although the conservator is not on that date qualified under subparagraph (b)(2).
- (B) A private professional conservator permitted to continue as conservator under (A) may apply to the court for removal of any conditions imposed by the court at any time after January 1 2006, that he or she becomes qualified under (b)(2)(A), (B), or (D) and satisfies the education requirement of (b)(3)(B).

**(e) [Continuing education]**

(1) *(Annual time requirements)* Beginning on January 1, 2007, except as provided in (i), every private professional conservator must complete during each calendar year a minimum of 15 hours of continuing education from eligible providers under this rule.

- (A) A maximum of 4 of the 15 hours required by this paragraph may be by self-study under the supervision of an eligible continuing education provider that provides evidence of completion.

- (B) A private professional conservator may complete continuing education courses that satisfy the requirements of this subdivision offered by eligible continuing education providers by means of video presentations or other delivery means at remote locations. Such courses are not self-study within the meaning of this rule.
  - (C) A private professional conservator who serves as an instructor in a continuing education course that satisfies the requirements of this rule may receive 1.5 hours of course participation credit for each hour of course instruction.
- (2) *(Annual subject matter requirements)*
- (A) At least 5 hours of continuing education each year must be in subjects appropriate for a conservator of the person.
  - (B) At least 5 hours of continuing education each year must be in subjects appropriate for a conservator of the estate.
  - (C) At least 1 hour of continuing education each year must be in fiduciary ethics.
- (3) *(Subject matter for conservators of the person)* “Subjects appropriate for a conservator of the person” under (2) include the following:
- (A) Advance directives and end-of-life decisions;
  - (B) Assessment of living situations;
  - (C) Communicating with adults with diminished capacity;
  - (D) Community resources;
  - (E) Dementia assessment;
  - (F) Dementia powers;
  - (G) Developmental disabilities;
  - (H) Due Process in Competency Determinations Act;
  - (I) Elder and dependent adult abuse or neglect and legal remedies;

- (J) Evaluation of residential care facilities;
- (K) Family dynamics and conflict resolution;
- (L) Home care of adults with diminished capacity;
- (M) Interstate issues in conservatorships of the person;
- (N) Involuntary mental health evaluation and intensive treatment for gravely disabled adults;
- (O) Lanterman-Petris-Short conservatorships;
- (P) Limited conservatorships of the person of developmentally disabled persons;
- (Q) Mandatory reporting requirements for elder and dependent adult abuse;
- (R) Medical decision making by conservators;
- (S) Medications for adults with diminished capacity;
- (T) Physical and cognitive functional assessments;
- (U) Probate Code and other California legal requirements for probate conservatorships of the person;
- (V) Reading and understanding medical charts;
- (W) Recognizing and evaluating mental illnesses;
- (X) Regulation of residential care facilities;
- (Y) Rights of residents and patients in residential, board-and-care, group living, and long-term care facilities; and
- (Z) Working with other professionals.

- (4) *(Subject matter for conservators of the estate)* “Subjects appropriate for a conservator of the estate” under (2) include the following:
- (A) Asset recovery;
  - (B) Court accounting;
  - (C) Economics of fiduciary services;
  - (D) Elder and dependent adult financial abuse and legal remedies;
  - (E) Evaluation of investment securities;
  - (F) Fiduciary liability;
  - (G) Fiduciary office management and technology;
  - (H) Income taxation;
  - (I) Interstate issues in conservatorships of the estate;
  - (J) Investment and other advisors for fiduciaries;
  - (K) Liability insurance;
  - (L) Limited conservatorships of the estate of developmentally disabled adults;
  - (M) Litigation by and against conservators;
  - (N) Marital and domestic partnership property issues in conservatorships;
  - (O) Medi-Cal, Supplemental Security Income, and other public benefits;
  - (P) Medicare and medical insurance;
  - (Q) Personal property asset management;
  - (R) Powers of attorney, abuses and remedies;
  - (S) Probate Code and other California legal requirements for probate conservatorships of the estate;

- (T) The Prudent Investor Act and authorized investments by conservators;
  - (U) Real property asset management;
  - (V) Record keeping;
  - (W) Risk management;
  - (X) Special needs trusts; and
  - (Y) Substituted judgment.
- (5) *(Continuing education for dual-status private professional fiduciaries)*  
Notwithstanding any other provision of this rule and rule 7.1010, a private professional conservator under this rule who is also a private professional guardian under rule 7.1010 may satisfy the minimum-hours requirements of both rules by completing a total of at least 15 hours of continuing education annually from eligible providers under either rule.

**(f) [Approved eligible continuing education providers]**

- (1) Eligible continuing education providers may include accredited educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, and court-connected groups.
- (2) Effective January 1, 2008, continuing education providers and courses must be approved by the Administrative Office of the Courts.
- (3) Continuing education completed in calendar 2007 complies with the requirements of this rule if it addresses the subjects required by this rule, is certified for continuing education credit by the provider in accordance with the requirements of subdivision (g), and is provided by:
  - (A) An accredited educational institution;
  - (B) An accountancy organization or private education provider, if the education qualifies with the California State Board of Accountancy for continuing education credit for renewal of an individual license as a Certified Public Accountant;

- (C) The Administrative Office of the Courts;
- (D) The American Bar Association;
- (E) The American Society of Aging;
- (F) California Continuing Education of the Bar;
- (G) The Gerontological Society of America;
- (H) A local bar association or private education provider, if the education qualifies with the California State Bar for continuing legal education credit for a member of the California bar;
- (I) The National Association of Professional Geriatric Care Managers;
- (J) The National Association of Social Workers;
- (K) The National Guardianship Association; or
- (L) The Professional Fiduciary Association of California.

**(g) [Requirements for continuing education providers]** Each continuing education provider must:

- (1) Ensure that the instructors teaching continuing education courses are experts in the subject matter;
- (2) Monitor and evaluate the quality of courses, curricula, instructors, and instructor training;
- (3) Keep records of attendance or self-study and distribute to each participant a certificate of completion that identifies the education provider and documents the subject taught, the number of hours of education offered, and the number of hours the participant completed; and
- (4) Be approved under (f)(2).

**(h) [Proof of compliance]**

- (1) (*Qualifications*) Every private professional conservator, under penalty of perjury, must demonstrate his or her qualifications under (b) in his or her information statement filed with the clerk of each appointing court under

Probate Code section 2342, beginning with the first statement filed after the effective date of this rule and annually thereafter.

(2) *(Continuing education)*

(A) Every private professional conservator must declare, under penalty of perjury, that he or she has complied with the continuing education requirements under (e) for the previous calendar year in his or her annual statement filed with the clerk of each appointing court under Probate Code section 2342, beginning with the first statement filed after December 31, 2007, and annually thereafter.

(B) Every private professional conservator must retain certificates of attendance or other proof of participation in continuing education required by this rule for a period of three years after the end of each year of education completed. An appointing court may require a private professional conservator to produce proof, in a manner determined by the court, of compliance with the requirement for any year at any time within that three-year period.

(3) *(Report of noncompliance to the Statewide Registry)* If an appointing court determines that a private professional conservator has failed to comply with the qualification or continuing education requirements of this rule, the court clerk must forward a copy of the court's determination to the Statewide Registry under Probate Code section 2850(d).

(i) **[Waiver of continuing education]** Notwithstanding any other provision of this rule, a court may, on ground of hardship, waive the continuing education requirements of (e), in whole or in part and under conditions satisfactory to the court, for any private professional conservator appointed by the court.

W06-08

Probate guardianships and conservatorships: Private professional guardians' and conservators' statements of qualifications and compliance with continuing education requirements (Adopt forms GC-005 and GC-006)

| Commentator   | Position | Comment on behalf of group? | Comment  | Response of Probate and Mental Health Advisory Committee   |
|---|----------|-----------------------------|--|--|
| 1. Ms. Sandy Almansa<br>Supervising Legal Clerk II<br>Superior Court of California,<br>County of Stanislaus<br>P.O. Box 1098, 1100 I Street<br>Modesto, California 95353-1098 | A        | N                           | Agree with proposed changes.   | No response necessary.   |
| 2. Ms. Grace Andres<br>Program Manager<br>Superior Court of California,<br>County of Solano<br>600 Union Avenue<br>Fairfield, California 94533                                | A        | N                           | Agree with proposed changes.   | No response necessary.   |
| 3. Hon. James P. Cox<br>Supervising Probate Judge of the<br>Superior Court of California,<br>County of Riverside<br>46200 Oasis Street<br>Indio, California 92201             | A        | N                           | Agree with proposed changes.   | No response necessary.   |
| 4. Ms. Fatima Evans<br>Attorney<br>Fitzgerald, Abbott & Beardsley, LLP<br>1221 Broadway, 21st Floor<br>Oakland, California 94612  | AM       | Y                           | Agree with proposed changes if modified.<br>Attached markup of draft form GC-005 recommends:<br><br>(1) Addition of references to continuation attachments, items 4a(2)(b), 4b(2)(b);<br><br>(2) Addition of check boxes in item 5, criminal | (1) Agree, these references have been added to form GC-005.<br><br>(2) Agree, the check boxes have |

W06-08

Probate guardianships and conservatorships: Private professional guardians' and conservators' statements of qualifications and compliance with continuing education requirements (Adopt forms GC-005 and GC-006)

| Commentator  | Position | Comment on behalf of group? | Comment  | Response of Probate and Mental Health Advisory Committee   |
|--|----------|-----------------------------|--|--|
|  |          |                             | <p>and civil misconduct; and</p> <p>(3) Addition of reference to liability in a civil action for elder or dependent adult abuse or neglect.</p>  | <p>been added.</p> <p>(3) This is a good idea but would require a change in rules 7.1010 and 7.1060 before this reference could be added to the form. Many types of civil misconduct mentioned in the rules and listed in form GC-005 would be included in a civil judgment for elder abuse.</p> |
| <p>5. Ms. Suzanna Gee<br/>Associate Managing Attorney<br/>Protection and Advocacy, Inc.<br/>100 Howe Avenue, Suite #235 N<br/>Sacramento, California 95825</p> | <p>A</p> | <p>Y</p>                    | <p>Agree with proposed changes. Protection and Advocacy, Inc. agrees with the proposed forms GC-005 and GC-006 since they appear to correlate with the California Rules of Court. If, however, the forms are modified and appear not to correlate with the rules, the organization may not agree and desires to comment further.</p> | <p>No response necessary.</p>  |
| <p>6. Mr. David Jetton<br/>Court Administrator</p>   | <p>A</p> | <p>N</p>                    | <p>Agree with proposed changes.</p>  | <p>No response necessary.</p>  |

W06-08

Probate guardianships and conservatorships: Private professional guardians' and conservators' statements of qualifications and compliance with continuing education requirements (Adopt forms GC-005 and GC-006)

|    | <b>Commentator</b>  | <b>Position</b> | <b>Comment on behalf of group?</b> | <b>Comment</b>  | <b>Response of Probate and Mental Health Advisory Committee</b>   |
|----|---|-----------------|------------------------------------|---|---|
|    | Superior Court of California<br>County of Los Angeles<br>600 S. Commonwealth<br>Los Angeles, California 90005   |                 |                                    |   |   |
| 7. | Hon. Kent M. Kellegrew<br>Judge of the Superior Court of California,<br>County of Ventura<br>P.O. Box 6489<br>Ventura, California 93006-6489                                      | A               | N                                  | Agree with proposed changes.  | No response necessary.  |
| 8. | Ms. Tressa Kentner<br>Executive Officer<br>Superior Court of California<br>County of San Bernardino<br>172 West 3rd Street, Second Floor<br>San Bernardino, California 92415-0302 | AM              | N                                  | Agree with proposed changes only if modified.<br><br>Concerning form GC-005, there is a typo at p. 4, item 7a, second line (additional spaces between "estate" and "in").<br><br>Otherwise, the form should be supported as furthering the collection of information from private professionals.<br><br>Concerning Form GC-006, the format of sections 1a and 1b could lead to confusion and violations of rules 7.1060(e) and 7.1010(e). Specifically, as is mentioned in the introduction to the form near the top of page 1, a private professional who is both a professional guardian and professional conservator must have completed 5 hours of "subject appropriate" continuing education in each field. The format of section 1a would tempt | This item has been revised to avoid confusion.<br><br>The advisory committee disagrees with this comment. The subjects of the courses taken must be listed in the form. This should sufficiently identify in which category—guardian or conservator—they fit. |

W06-08

Probate guardianships and conservatorships: Private professional guardians' and conservators' statements of qualifications and compliance with continuing education requirements (Adopt forms GC-005 and GC-006)

| Commentator  | Position | Comment on behalf of group? | Comment  | Response of Probate and Mental Health Advisory Committee   |
|--|----------|-----------------------------|--|--|
|  |          |                             | <p>a private professional guardian and conservator to generally list his or her entire coursework after having checked boxes for both conservatorship and guardianship subject matters. Four subsections (subsections 1a through 1d) should be used to separately specify hours for each subject matter –conservator of person, conservator of estate, guardian of person, and guardian of estate- or the form should otherwise be redesigned to avoid the combining of conservatorship and guardianship coursework.</p> <p>Section 2 of form GC-006 should be reworded to state that the professional’s continuing education includes – “hours of self-study under the supervision of an eligible continuing education provider that meets the requirements of rules 7.1060 or 7.1010, as follows:”</p> | <p>The advisory committee agrees with this recommendation. The recommended language has been added to item 2 of form GC-006.</p> |
| <p>9. Ms. Joan McCoy<br/>Court Appointed Special Advocate (CASA) Volunteer<br/>CASA of Fresno and Madera Counties<br/>1475 West Shaw Avenue<br/>Fresno, California 93711</p> | <p>A</p> | <p>N</p>                    | <p>Agree with proposed changes.</p>  | <p>No response necessary.</p>  |
| <p>10. Ms. Sharon Ngim<br/>Staff Liaison to the Standing Committee on the Delivery of Legal Services</p>   | <p>A</p> | <p>Y</p>                    | <p>The State Bar Standing Committee on the Delivery of Legal Services generally supports the proposal to the extent that it creates tighter rules</p>  | <p>No response is necessary because none of the Standing Committee’s comments are directed at the</p>                            |

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Probate guardianships and conservatorships: Private professional guardians' and conservators' statements of qualifications and compliance with continuing education requirements (Adopt forms GC-005 and GC-006)

| Commentator  | Position | Comment on behalf of group? | Comment   | Response of Probate and Mental Health Advisory Committee  |
|--|----------|-----------------------------|---|---|
| <p>The State Bar of California<br/>Office of Legal Services, Access &amp; Fairness Programs<br/>180 Howard Street<br/>San Francisco, California 94105-1639</p>       |          |                             | <p>for professional fiduciaries, but would like to see that the rules go even further so that they require specific expertise in the areas of real estate management, investment strategies, budgeting and basis accounting. The Rules also should require more oversight and continuing education for professional fiduciaries in order to protect conservatees from abuses.</p> | <p>forms. The advisory committee will consider the Standing Committee's recommendations for changes in the underlying rules of court.</p>   |
| <p>11. Hon. Kathleen O'Connor<br/>Judge of the Superior Court of California<br/>County of Yuba<br/>215 Fifth Street, Suite #200<br/>Marysville, California 95901</p> | <p>N</p> | <p>N</p>                    | <p>(1) I believe the private professional should complete the entire form annually as we must do with Form 700. I do not agree that the private professional should be able to refer to an earlier filed form.</p>  | <p>(1) The advisory committee disagrees with this recommendation. Form GC-005 currently would require completion of items previously completed only if there is any change since the most recently filed form, and a new signed statement would be required each year. The advisory committee believes, however, that it would be unnecessarily burdensome for a private professional to repeat his or her initial qualifications, past educational and job experience, etc., every year, and for the court to have to review, file, and store that</p> |

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| Commentator   | Position  | Comment on behalf of group? | Comment  | Response of Probate and Mental Health Advisory Committee   |
|---|-----------|-----------------------------|--|--|
|   |           |                             | <p>(2) Under item 5 of form GC-005, personal or professional conduct: Private professionals should have to indicate if they have been sanctioned in any fashion or have been held in contempt of court.</p>  | <p>unchanged information every year.</p> <p>(2) This may be a good idea, but would go beyond the scope of current rules 7.1010 and 7.1060 and thus the intended purpose of this form. The advisory committee believes that each court is free to decide whether to require disclosure of sanctions and contempt citations. Item 8 of the form provides a place in the form for the disclosure.</p> |
| <p>12. Ms. Carolyn Reilly<br/>Executive Director<br/>Elder Law &amp; Advocacy<br/>3675 Ruffin Road, Suite 315<br/>San Diego, California 92123</p> | <p>AM</p> | <p>Y</p>                    | <p>Agree with proposed changes if modified. We laud the continuing education requirements. However, we suggest that real estate investment and management of and investment strategies plus budgeting should be required continuing education courses.</p> | <p>The advisory committee believes that the current nonexclusive lists of continuing education topics for a conservator or guardian of the estate contained in rules 7.1010(e)(4) and 7.1060(e)(4) are</p>   |

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| Commentator   | Position | Comment on behalf of group? | Comment   | Response of Probate and Mental Health Advisory Committee  |
|---|----------|-----------------------------|---|---|
| 13. Ms. Sandra R. Riley<br>Supervising Probate Attorney<br>Superior Court of California,<br>County of Los Angeles<br>111 North Hill Street<br>Los Angeles, California 90012 | AM       | N                           | Agree with proposed changes if modified. Forms GC005 and GC006 should require declarant's name on each page, including attachments. | The advisory committee agrees with this recommendation. Space for the declarant's name has been added to the captions of all pages of both forms after page 1.                    |
| 14. Mr. Michael Roddy<br>Executive Officer<br>Superior Court of California<br>County of San Diego<br>200 West Broadway<br>San Diego, California 92101                       | A        | Y                           | I agree with proposed changes.  | No response necessary.  |
| 15. Ms. Iris Stuart<br>Court Operations Manager<br>Superior Court of California,<br>County of Sonoma<br>600 Administration Drive, Room 107J<br>Santa Rosa, California 95403 | A        |                             | Agree with proposed changes.<br><br>Is there any interest in providing courts with a statewide annual information statement?        | No response necessary.<br><br>The advisory committee is looking into this issue, but the interest in conservatorship administration in the Legislature spurred by a series of Los |

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|-------------|----------|-----------------------------|--|---|
|             |          |                             | <p>It appears from reading the proposed rules that trustees are exempt from continuing education requirements. It would be nice if there were consistency across this area as the process of handling the registration of private professional fiduciaries is creating increasing work for the courts.</p> | <p>Angeles Times articles in late 2005 may result in legislation replacing the annual information statement requirement entirely with a licensing system for private professional guardians, conservators, and trustees in the Department of Consumer Affairs.</p> <p>The rules of court follow the statute (Assembly Bill 1155 in the 2004 Legislature) in their application only to professional guardians and conservators. This is reasonable: most trustees of private living trusts are not appointed or directly supervised by courts. They do not file accountings or otherwise appear in court in the absence of filed objections or complaints by persons interested in their trusts.</p> <p>In addition, enforcement of these rules of court is necessarily tied to the local information statement filing requirement of Probate Code section 2342. The only trustees subject to that requirement under section 2341(c) are nonprofit</p> |

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|--|----------|-----------------------------|---|---|
| 16. Superior Court of California, County of Los Angeles<br>111 North Hill Street<br>Los Angeles, California 90012<br>(commentator not otherwise identified). | AM       | Y                           | Agree with proposed changes only if modified.<br><br>In item 7b of form GC-005, add a third checkbox with the language "In all but the following matters" to allow for continuing to act on all but one or a few matters. | charitable corporations authorized to act as trustees under Probate Code section 15604. That is a much smaller group of trustees than those who must register with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the Department of Justice.<br><br>The advisory committee disagrees with this recommendation. The form requires a listing of all matters on which the professional has been appointed plus disclosure of the matters on which her or she is willing to continue. A process of subtraction results in disclosure of the matters on which the professional does not want to remain. The fiduciary would still have to petition for permission to resign in each such matter, but the court and probate department staff would be aware with the filing of the form which matters were going to be involved in that process. |

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|-------------|----------|-----------------------------|---|---|
|             |          |                             | Item 7c should be changed to item 8 so it won't be buried in item 7. If this change is made, item 8 should be renumbered as item 9. | The advisory committee believes the subject matter of item 7c better fits in item 7 and that item 7c of the form is sufficiently highlighted. |