

**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. Marjorie Laird Carter, Chair
Douglas C. Miller, Committee Counsel,
415-865-7535, douglas.miller@jud.ca.gov

DATE: February 27, 2009

SUBJECT: Probate: Changes in Judicial Council Forms to Provide Required Information on Professional Fiduciaries as Proposed Conservators or Guardians (revise forms GC-310 and GC-314, GC-210 and GC-212; adopt form GC-210(A-PF)/GC-310(A-PF) (Action Required))

Issue Statement

Legislation effective January 1, 2009¹ requires changes in the *Petition for Appointment of Probate Conservator* (form GC-310) to add licensure and other information required of fiduciaries subject to the Professional Fiduciaries Act who are proposed for appointment as conservators.² The legislation also requires that a petition for appointment of a conservator filed by persons other than the proposed conservatee (1) describe efforts to find and communicate with members of the proposed conservatee's family, and (2) disclose the proposed conservatee's preferences concerning the conservatorship generally and the person proposed as conservator specifically.

The confidential screening forms for proposed conservators and guardians that must be submitted to courts with petitions for their appointment (forms GC-314 and GC-212) do not refer to professional fiduciaries as defined under the Professional Fiduciaries Act and contain references to the former law replaced by the Act.

¹ Stats. 2008, ch.293 (Assem. Bill 1340), § 1, amending Probate Code section 1821.

² The Professional Fiduciaries Act (Stats. 2006, ch. 491 (Sen. Bill 1550), § 3, part of the Omnibus Conservatorship and Guardianship Reform Act of 2006) commences at Business and Professions Code section 6500.

The licensure information that must be provided by professional fiduciaries to be eligible for appointment as conservators under the Professional Fiduciaries Act must also be provided to support their appointment as guardians. But this information is not currently requested in the *Petition for Appointment of Guardian of Minor* (form GC-210).³

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective July 1, 2009:

1. Revise the *Petition for Appointment of Probate Conservator* (form GC-310), the *Confidential Conservator Screening Form* (form GC-314), the *Petition for Appointment of Guardian of Minor* (form GC-210), and the *Confidential Guardian Screening Form* (form GC-212) to request information required of professional fiduciaries under the Professional Fiduciaries Act and Probate Code sections 1821 and 2340; and
2. Adopt a new mandatory form, *Professional Fiduciary Attachment to Petition for Appointment of Guardian or Conservator* (form GC-210(A-PF)/GC-310(A-PF)), for professional fiduciaries to use to provide the information required of them in support of their appointment in both guardianships and conservatorships.

Copies of proposed revised forms GC-310, GC-314, GC-210, and GC-214, and new form GC-210(A-PF)/GC-310(A-PF) are attached at pages 10–24.

Rationale for Recommendation

Conservatorships

Effective January 1, 2009, Probate Code section 1821(c) requires the petition for appointment of a conservator filed by a professional fiduciary to state his or her license information, and to provide a statement explaining who engaged the petitioner or how he or she was engaged, and disclosing any prior relationship the petitioner had with the proposed conservatee or his or her family or friends. Section 1821(d) also requires a petition filed by anyone other than the proposed conservatee to include declarations showing (1) due diligence to find the proposed conservatee's relatives or why it was not feasible to contact any of them, and (2) the preferences of the proposed conservatee concerning the appointment generally and the particular candidate for appointment specifically, or reasons why those preferences cannot be ascertained.

³ See Probate Code section 2340.

Form GC-310

The *Petition for Appointment of Probate Conservator* (form GC-310) would be revised as follows:

1. Existing items 3b and 3d of the form are combined in item 3b to create a single item for all questions about the petitioner;
2. A new item 3b(12) would be added on page 2, to be selected by petitioning professional fiduciaries licensed under the Professional Fiduciaries Act. This item includes a statement that the fiduciary's license information will be provided in item 1 on page 1 of the attached Professional Fiduciary Attachment and an instruction to complete item 3d.
3. Revised item 3c(7) on page 3 identifies a professional fiduciary as a proposed conservator and identifies the Professional Fiduciary Attachment as the place where his or her license information will be provided.
4. Revised item 3d(1) refers to item 2 on page 2 of the Professional Fiduciary Attachment for the information concerning engagement of the petitioning professional fiduciary and any prior relationship he or she had with the proposed conservatee or his or her family or friends, as required by Probate Code section 1821. Item 3d(2) advises that this information is not provided in an attachment to the petition because it is given in a petition for temporary conservatorship filed with the petition, as permitted by section 1821(c).
5. A new item 3f is added at the bottom of page 3 for a statement of due diligence in efforts to locate the proposed conservatee's relatives or reasons why it would not be feasible to contact any of them, and a statement of the proposed conservatee's preferences concerning the appointment or reasons why it would not be feasible to ascertain them, required by Probate Code section 1821(d) if the proposed conservatee is not a petitioner. The statements are to be supplied in attachments. An instruction is also added to item 3b(4), which identifies the proposed conservatee as a petitioner, advising that if that item is not selected, the petitioner must also complete item 3f.
6. Instructions are added to items 3b(6) and (7) and 3c(2) and (3) advising that if any of those items are selected, indicating that the proposed conservatee's spouse or Registered Domestic Partner is a petitioner or a proposed

conservator, the petitioner must also complete item 6 (spouse) or item 7 (Registered Domestic Partner).⁴

7. A seventh page would be added to the form. The new material in items 3b, 3c, 3d, and 3f requires an additional page but uses only part of the newly available space. The remaining portion of the additional page is used to provide for up to nine additional relatives of the proposed conservatee to be listed in item 11, potentially reducing the number of attached pages necessary for this purpose.

Form GC-210(A-PF)/GC-310(A-PF)

A new form is proposed, *Professional Fiduciary Attachment to Petition for Appointment of Guardian or Conservator*, designated as form GC-210(A-PF)/GC-310(A-PF), to be used by professional fiduciaries to provide the licensure and other information required by the Professional Fiduciaries Act and Probate Code sections 1821 and 2340. The form would be attached to form GC-310 (and also to the standard-format guardianship petition, form GC-210, discussed in more detail below). This form is referred to in both petitions as the Professional Fiduciary Attachment.

The first page of the new form would provide the required licensure information about the professional fiduciary proposed for appointment as conservator (or guardian). Item 1a of the form requests the license number and issuance or last renewal date of the license issued to the professional by the Professional Fiduciaries Bureau.

Items 1b and 1c of the new form concern three exemptions from the licensure requirements of the Professional Fiduciaries Act for a person who is a professional fiduciary as defined in the Act (Bus. & Prof. Code, § 6501(f)), including a person acting as a guardian or conservator of two or more individuals who are unrelated to the fiduciary or to each other. The exemptions are provided in Business and Professions Code sections 6530(b), (c), and (d) for attorneys licensed by the State Bar of California, Certified Public Accountants (CPAs) licensed by the California State Board of Accountancy, and enrolled agents—persons authorized to prepare tax returns and practice before the Internal Revenue Service under Part 10 of Title 31 of the Code of Federal Regulations.

The professional fiduciary license exemptions for CPAs and enrolled agents are limited. These professionals may act as professional fiduciaries, including as guardians or conservators, without a license under the Act but only to the extent

⁴ Items 6 and 7 inquire into failing or problematic marital or partnership relationships affecting the spouse's or partner's eligibility to petition or be appointed as conservator. See Probate Code sections 1813 and 1813.1.

their actions as fiduciaries are within the scope of practice of their professions as CPAs or enrolled agents. Item 1c(3) of the new form would require these professionals to show facts demonstrating that their actions as guardians or conservators would be within the scope of practice of their professions if they claim an exemption from licensure under the Act.

The second page of the new form is for conservatorships only. It is identified in item 3d of form GC-310, where the professional fiduciary is directed to name the person who engaged him or her to file the petition or otherwise explain the circumstances of the engagement, and to describe any prior relationship the professional had with the proposed conservatee or his or her family or friends, information required by Probate Code section 1821 if a licensed professional fiduciary is a petitioner.⁵

The form requires the signature of the professional fiduciary under penalty of perjury.

Form GC-314

Items 17 and 18 of the current *Confidential Conservator Screening Form* (form GC-314) inquire of a proposed conservator whether he or she is a private professional conservator under former law, and whether he or she has completed the filings and registration required under that law. These items would be revised to inquire whether the proposed conservator is a professional fiduciary under the Professional Fiduciaries Act and, if so, whether or not he or she is licensed. The form would then refer to the showing on licensure made in item 1 on page 1 of the Professional Fiduciary Attachment to the conservatorship petition.

Guardianships

Probate Code section 1821 does not apply to guardianships; the information requested in items 3d and 3f of form GC-310 and page 2 of the proposed new professional fiduciary's attachment form is not required in those proceedings. However, as noted above, a professional fiduciary may be appointed as a guardian. Therefore, the fiduciary's license information, including any exemption he or she may claim under Business and Professions Code section 6530, must be provided in a petition for the fiduciary's appointment as a guardian. The current guardianship petitions, forms GC-210 and GC-210(P), do not request this information.

⁵ Probate Code section 1821 and these new and revised forms do not require this information if the professional fiduciary is the proposed conservator on the petition of another or is not licensed because of one of the exemptions discussed above.

Form GC-210

The standard-format *Petition for Appointment of Guardian of Minor* (form GC-210) may be used in all cases and must be used to request the appointment of a guardian of the estate or the person and estate. The plain-language *Petition for Appointment of Guardian of the Person* (form GC-210(P)) may be used only to petition for the appointment of a guardian of the person.⁶

Although the definition of a professional fiduciary in the Professional Fiduciaries Act includes a guardian of the person, the advisory committee believes that few professionals will seek such appointments. Those who do may use form GC-210. Therefore, the committee proposes to revise only that form to provide professional fiduciary license information. Item 4 of form GC-210, calling for information about the proposed guardian, would be revised by adding a new item 4d for professional fiduciaries. The license or exemption information would be provided in item 1 of the Professional Fiduciary Attachment to the petition. As noted above, the first page of the new professional fiduciary attachment form would be used for that purpose.

Form GC-212

Items 16 and 17 of the current *Confidential Guardian Screening Form* (form GC-212) request the same obsolete information noted above for items 17 and 18 of the *Confidential Conservatorship Screening Form* (form GC-314). Form GC-212 would be revised in the same way proposed for form GC-314.

Alternative Actions Considered

The advisory committee first considered making the changes required by Probate Code section 1821 and the Professional Fiduciaries Act only in the conservatorship petition. Its initial drafts placed the new information in the body of that form or referred it to an attachment to be created entirely by the petitioner, without a new form for the purpose. One of these drafts was sent to Ms. Mellonie Yang, Chief of the Professional Fiduciaries Bureau, for her suggestions concerning the licensure and exemption information.

Ms. Yang responded by expressing concern that placing the exemption material in the petition would encourage unqualified persons to claim the exemptions. In response to this concern, the advisory committee removed the licensure and exemption inquiries from the conservatorship petition and placed it instead in a revised draft of the conservator screening form, which is confidential when filed with the court. The committee's work on that form led to a similar revision of the confidential guardian screening form.

⁶ See Cal. Rules of Court, rule 7.101(c).

When the revised conservatorship petition and confidential screening forms were circulated for comment, the committee requested specific comments as to whether the licensure and exemption inquiry should be placed in the petition or remain in the screening form. All commentators who responded to this request supported the restoration of the professional license and exemption inquiry to the petition because the public has a right to review license and exemption issues affecting the appointment of a professional fiduciary in a conservatorship. Another commentator recommended that all information concerning professional fiduciaries required by the Professional Fiduciaries Act or by Probate Code sections 1821 and 2340 should be placed in an attachment form that can be used by professionals in both guardianships and conservatorships.

In response to these comments, the advisory committee revised the forms again. The licensure and exemption inquiry was restored to the conservatorship petition, the new attachment form was created to provide a uniform and consistent way for professional fiduciaries to provide the required information in all cases, including guardianships as well as conservatorships, and the screening forms were revised accordingly. The guardianship petition, form GC-210, was also amended to identify a professional fiduciary as a proposed guardian and to refer to the new Professional Fiduciary Attachment.

Comments From Interested Parties

This proposal was circulated for comment to a list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters, court self-help center representatives, probate-interest sections of the State Bar and local bar associations, the Professional Fiduciaries Bureau, and representatives of other organizations interested in probate matters. It was also circulated to court executive officers, presiding judges, individuals, and organizations with a more general interest in court-related issues.

Eleven comments were received. A chart showing the comments and the advisory committee's response is attached at pages 25–35.

Six commentators made no recommendations for different or additional changes in these forms. The remaining commentators made specific recommendations, which are discussed below.

Two commentators responded to the specific inquiry concerning placement of the licensure and exemption information. The Trusts and Estates Section of the State Bar and the Professional Fiduciaries Bureau expressed a preference for including this information, including a showing in support of a claim of exemption, in the petition rather than in the confidential screening form. No one expressed a preference for keeping the exemption information in the screening form. Because

of these comments and the recommendation of the Superior Court of Los Angeles County, discussed below, the conservatorship petition was revised again to restore the licensure and exemption inquiries to that form instead of the confidential screening form.

Ms. Yang, Chief of the Professional Fiduciaries Bureau, commenting on behalf of the bureau, also urges that (1) the exemption from licensure for CPAs is as broad as the exemption for attorneys despite the express limiting language in Business and Professions Code section 6530(c); and (2) the limitation on the exemption for enrolled agents, expressed in language identical to that used to prescribe the limitation for CPAs, amounts to elimination of the exemption for enrolled agents because no fiduciary could perform its duties within the narrow scope of practice of an enrolled agent under federal regulations. Ms. Yang made this comment in support of her recommendation that the Professional Fiduciary Attachment should be modified to (1) delete the inquiry about the scope of practice of a CPA and the relationship of that practice to the duties of a guardian or conservator, and (2) delete any reference to an exemption from licensure for an enrolled agent.

These positions appear inconsistent with the plain language of Business and Professions Code section 6530.⁷ In addition, as of this time, the Professional Fiduciaries Bureau has not published regulations consistent with Ms. Yang's interpretation of that section. Therefore, the committee did not make the changes to the Professional Fiduciary Attachment requested by her.

The Superior Court of Los Angeles County recommends the development and adoption of a form attachment to both conservatorship and guardianship petitions, suitable for use by all professional fiduciaries when they are proposed for appointment as conservators or guardians. The attachment would contain all professional fiduciary licensure information, including exemption claims under section 6530, and the additional information required of these professionals by Probate Code section 1821. The committee supports this recommendation and has created the Professional Fiduciary Attachment as form GC-210(A-PF)/GC-210(A-

⁷ Section 6530 provides in full as follows:
6530.

- (a) On and after January 1, 2009, no person shall act or hold himself or herself out to the public as a professional fiduciary unless that person is licensed as a professional fiduciary in accordance with the provisions of this chapter.
- (b) This section does not apply to a person licensed as an attorney under the State Bar Act (Chapter 4 (commencing with Section 6000)).
- (c) This section does not apply to a person licensed as, *and acting within the scope of practice of, a certified public accountant* pursuant to Chapter 1 (commencing with Section 5000) of Division 3.
- (d) This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service *who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations.* (Italics added.)

PF) and revised forms GC-210 and GC-310 to refer to the new attachment in appropriate places in each form.

Ms. Debra Matheny, a manager of family court services for the Superior Court of Kern County, recommends that item 11 of the conservatorship petition, which calls for the names and addresses of the proposed conservatee's close relatives, be revised to request their telephone numbers. The committee believes this proposal would help court investigators, who must now contact these persons under the investigation requirements imposed by the 2006 conservatorship reform legislation. This change, however, might require legislation. The required contents of the conservatorship petition are specified in detail in Probate Code section 1821; a request for information not required by that section could be considered to be inconsistent with the statute. Moreover, persons listed in conservatorship petitions might object to having their unlisted or cell phone numbers provided to the public. This change is worthy of further consideration at a later time, including circulation for public comment.

One commentator recommends that the request for a professional fiduciary's license information should be removed from the caption box at the top of page 1 of form GC-310. The advisory committee supports this recommendation and has removed that request from the form.

Implementation Requirements and Costs

Revision of forms GC-310, GC-314, GC-210, and GC-212 and adoption of form GC-210(A-PF)/GC-310(A-PF) will result in the usual costs associated with the revision or adoption of any Judicial Council form. However, development of a standard attachment for all professional fiduciaries to use to supply their license and other information required by Probate Code section 1821 should reduce the cost to these fiduciaries of preparing petitions for appointment, and thus the cost of this activity to the estates of conservatees and wards. Courts should also reduce staff time to review and evaluate petitions filed by or on behalf of professional fiduciaries because this information will be provided in a uniform and consistent manner in all cases in which professional fiduciaries appear.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 6 March 2, 2008 Not Approved by the Judicial Council		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____			
CONSERVATORSHIP OF _____ (Name): _____ <div style="text-align: right;">(PROPOSED) CONSERVATEE</div>			
PETITION FOR APPOINTMENT OF <input type="checkbox"/> SUCCESSOR PROBATE CONSERVATOR OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: _____ <table style="width:100%; border: none;"> <tr> <td style="border: none; width: 80%;">HEARING DATE AND TIME: _____</td> <td style="border: none; width: 20%;">DEPT.: _____</td> </tr> </table>	HEARING DATE AND TIME: _____	DEPT.: _____
HEARING DATE AND TIME: _____	DEPT.: _____		

1. **Petitioner (name):**

requests that

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

(Telephone): _____

be appointed successor conservator limited conservator
of the PERSON of the (proposed) conservatee and Letters issue upon qualification.

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

(Telephone): _____

be appointed successor conservator limited conservator
of the ESTATE of the (proposed) conservatee and Letters issue upon qualification.

c. (1) bond not be required because the proposed successor conservator is a corporate fiduciary or an exempt government agency. for the reasons stated in Attachment 1c.

(2) bond be fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law. (Specify reasons in Attachment 1c if the amount is different from the minimum required by Probate Code section 2320.)

(3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location): _____

d. orders authorizing independent exercise of powers under Probate Code section 2590 be granted. Granting the proposed successor conservator of the estate powers to be exercised independently under Probate Code section 2590 would be to the advantage and benefit and in the best interest of the conservatorship estate. (Specify orders, powers, and reasons in Attachment 1d.)

e. orders relating to the capacity of the (proposed) conservatee under Probate Code section 1873 or 1901 be granted. (Specify orders, facts, and reasons in Attachment 1e.)

f. orders relating to the powers and duties of the proposed successor conservator of the person under Probate Code sections 2351–2358 be granted. (Specify orders, facts, and reasons in Attachment 1f.)

g. the (proposed) conservatee be adjudged to lack the capacity to give informed consent for medical treatment or healing by prayer and that the proposed successor conservator of the person be granted the powers specified in Probate Code section 2355. (Complete item 9 on page 6.)

Do NOT use this form for a temporary conservatorship.

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

1. h. (for limited conservatorship only) orders relating to the powers and duties of the proposed successor * limited conservator of the person under Probate Code section 2351.5 be granted. (Specify orders, powers, and duties in Attachment 1h and complete item 1j.)
- i. (for limited conservatorship only) orders relating to the powers and duties of the proposed successor * limited conservator of the estate under Probate Code section 1830(b) be granted. (Specify orders, powers, and duties in Attachment 1i and complete item 1j.)
- j. (for limited conservatorship only) orders limiting the civil and legal rights of the (proposed) limited conservatee be granted. (Specify limitations in Attachment 1j.)
- k. orders related to dementia placement or treatment as specified in the Attachment Requesting Special Orders Regarding Dementia (form GC-313) under Probate Code section 2356.5 be granted. A Capacity Declaration—Conservatorship (form GC-335) and Dementia Attachment to Capacity Declaration—Conservatorship (form GC-335A), executed by a licensed physician or by a licensed psychologist acting within the scope of his or her licensure with at least two years experience diagnosing dementia, are filed herewith. will be filed before the hearing. (appointment of successor conservator only) will not be filed because an order relating to dementia placement or treatment was filed on (date): _____ . That order has neither expired by its terms nor been revoked.
- l. other orders be granted. (Specify in Attachment 1l.)

2. (Proposed) conservatee is (name): _____ (Telephone): _____
(Present address): _____

3. a. **Jurisdictional facts** (initial appointment only): The proposed conservatee has no conservator in California and is a
- (1) resident of California and
- (a) a resident of this county.
- (b) not a resident of this county, but commencement of the conservatorship in this county is in the best interests of the proposed conservatee for the reasons specified in Attachment 3a.
- (2) nonresident of California but
- (a) is temporarily living in this county, or
- (b) has property in this county, or
- (c) commencement of the conservatorship in this county is in the best interest of the proposed conservatee for the reasons specified in Attachment 3a.
- b. **Petitioner** (answer items (1) and (2) and check all other items that apply:)
- (1) is is not a **creditor** or an agent of a creditor of the (proposed) conservatee.
- (2) is is not a **debtor** or an agent of a debtor of the (proposed) conservatee.
- (3) is the proposed successor conservator.
- (4) is the (proposed) conservatee. (If this item is **not** checked, you must also complete item 3f.)
- (5) is the spouse of the (proposed) conservatee. (You must also complete item 6.)
- (6) is the domestic partner or former domestic partner of the (proposed) conservatee. (You must also complete item 7.)
- (7) is a relative of the (proposed) conservatee as (specify relationship): _____
- (8) is an interested person or friend of the (proposed) conservatee.
- (9) is a state or local public entity, officer, or employee.
- (10) is the guardian of the proposed conservatee.
- (11) is a bank other entity authorized to conduct the business of a trust company.
- (12) is a professional fiduciary within the meaning of Business and Professions Code section 6501(f) who is licensed by the Professional Fiduciaries Bureau of the Department of Consumer Affairs. Petitioner's license number is provided in item 1 on page 1 of the attached Professional Fiduciary Attachment. (Use form GC-210(A-PF)/GC-310(A-PF) for this attachment. You must also complete item 2 on page 2 of that form and item 3d below.)

* See Item 5b on page 4.

CONSERVATORSHIP OF <i>(Name)</i> : <div style="text-align: right; padding-right: 10px;">CONSERVATEE</div>	CASE NUMBER:
--	----------------------

4. **(Proposed) conservatee**

- a. is is not a patient in or on leave of absence from a state institution under the jurisdiction of the California Department of Mental Health or the California Department of Developmental Services (*specify state institution*):

- b. is receiving or entitled to receive is neither receiving nor entitled to receive benefits from the U.S. Department of Veterans Affairs (*estimate amount of monthly benefit payable*): \$
- c. is is not able to complete an affidavit of voter registration.

5. a. **Proposed conservatee** (*initial appointment of conservator only*)

- (1) is an adult.
- (2) will be an adult on the effective date of the order (*date*):
- (3) is a married minor.
- (4) is a minor whose marriage has been dissolved.

b. **Vacancy in office of conservator** (*appointment of successor conservator only. A petition for appointment of a limited conservator after the death of a predecessor is a petition for initial appointment. (Prob. Code, § 1860.5(a)(1).)*)

There is a vacancy in the office of conservator of the person estate for the reasons specified in Attachment 5b. specified below.

c. **(Proposed) conservatee** requires a conservator and is

- (1) unable to properly provide for his or her personal needs for physical health, food, clothing, or shelter. Supporting facts are specified in Attachment 5c(1) as follows:

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____		FOR COURT USE ONLY Draft 4 March 2, 2009 Not Approved by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:			
CONSERVATORSHIP OF (Name): _____ PROPOSED CONSERVATEE		CASE NUMBER: _____	
CONFIDENTIAL CONSERVATOR SCREENING FORM Conservatorship of <input type="checkbox"/> Person <input type="checkbox"/> Estate <input type="checkbox"/> Limited Conservatorship		HEARING DATE AND TIME: _____	DEPT.: _____

The proposed conservator must complete and sign this form. The person requesting appointment of a conservator must submit the completed and signed form to the court with the conservatorship petition. This form must remain confidential.

How This Form Will Be Used

This form is **confidential** and will not be a part of the public file in this case. Each proposed conservator must complete and sign a separate copy of this form under rule 7.1050 of the California Rules of Court. The information provided in this form will be used by the court and by the persons and agencies designated by the court to assist the court in determining whether to appoint the proposed conservator as conservator. The proposed conservator **must** respond to each item.

1. a. **Proposed conservator (name):**
 b. Date of birth: _____
 c. Social security number: _____ d. Driver's license number: _____ State: _____
 e. Telephone numbers: Home: _____ Work: _____ Other: _____
2. a. I am related to the proposed conservatee as (specify relationship): _____
 b. I have personally known the proposed conservatee for: _____ years, _____ months.
3. I was _____ I was not _____ nominated as conservator of the _____ person _____ estate of the proposed conservatee, by _____ the proposed conservatee. _____ the spouse or registered domestic partner of the proposed conservatee. _____ a parent of the proposed conservatee. (If you checked "I was," provide documentation in Attachment 3.)
4. a. I am the spouse of the proposed conservatee. I have _____ I have not _____ filed for legal separation, dissolution of marriage, annulment, or adjudication of nullity of the marriage. (If you checked "I have," explain in Attachment 4.)
 b. I am not the spouse of the proposed conservatee.
5. a. I am the registered domestic partner of the proposed conservatee. I do not I do intend to terminate my domestic partnership with the proposed conservatee. (If you checked "I do," explain in Attachment 5.)
 b. I am a former domestic partner of the proposed conservatee. My domestic partnership with the proposed conservatee was terminated on (date): _____ . (Explain circumstances in Attachment 5.)
 c. I am neither a current nor former domestic partner of the proposed conservatee.
6. a. I do I do not owe money or have a financial obligation to the proposed conservatee. (If you checked "I do," explain in Attachment 6.)
 b. The proposed conservatee does does not owe money or have a financial obligation to me. (If you checked "does," explain in Attachment 6.)
 c. I am I am not an agent for a creditor of the proposed conservatee. (If you checked "I am," explain in Attachment 6.)

CONSERVATORSHIP OF (Name): 	CASE NUMBER:
PROPOSED CONSERVATEE	

7. I have I have not filed for bankruptcy protection within the last 10 years. (If you checked "I have," explain in Attachment 7.)
8. I have I have not been convicted of a felony or had a felony expunged from my record. (If you checked "I have," explain in Attachment 8.)
9. I have I have not been charged with, arrested for, or convicted of embezzlement, theft, or any other crime involving the taking of property. (If you checked "I have," explain in Attachment 9.)
10. I have I have not been charged with, arrested for, or convicted of a crime involving fraud, conspiracy, or misrepresentation of information. (If you checked "I have," explain in Attachment 10.)
11. I have I have not been charged with, arrested for, or convicted of any form of elder abuse or neglect. (If you checked "I have," explain in Attachment 11.)
12. I have I have not had a restraining order or protective order filed against me in the last 10 years. (If you checked "I have," explain in Attachment 12.)
13. I am I am not required to register as a sex offender under California Penal Code section 290. (If you checked "I am," explain in Attachment 13.)
14. I have I have not previously been appointed conservator, executor, or fiduciary in another proceeding. (If you checked "I have," explain in Attachment 14.)
15. I have I have not been removed or resigned as a conservator, guardian, executor, or fiduciary in any other case. (If you checked "I have," explain in Attachment 15.)
16. I have or may have I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of conservator. (If you checked "I have or may have," explain in Attachment 16.)
17. I am I am not a private professional fiduciary, as defined in Business and Professions Code section 6501(f). (If you checked "I am," respond to item 18. If you checked "I am not," go to item 19.)
18. I am I am not currently licensed by the Professional Fiduciaries Bureau of the Department of Consumer Affairs. My license status and information is stated in item 1 on page 1 of the Professional Fiduciary Attachment signed by me and attached to the petition that proposes my appointment as conservator in this matter. (Complete and sign the Professional Fiduciary Attachment and attach it to the petition, or deliver it to the petitioner for attachment, before the petition is filed. See item 3c(7) of the petition. Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.)
19. I am I am not a responsible corporate officer authorized to act for (name of corporation):

a California nonprofit charitable corporation that meets the requirements for appointment as conservator of the proposed conservatee under Probate Code section 2104. I certify that the corporation's articles of incorporation specifically authorize it to accept appointments as conservator. (If you checked "I am," explain the circumstances of the corporation's care of, counseling of, or financial assistance to the proposed conservatee in Attachment 19.)
20. Do you, or does any other person living in your home, have a social worker or parole or probation officer assigned to him or her?
 Yes No (If you checked "Yes," explain in Attachment 20 and provide the name, address, and telephone number of each social worker, parole officer, or probation officer.)

DECLARATION

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

Date:

(TYPE OR PRINT NAME OF PROPOSED CONSERVATOR)

(SIGNATURE OF PROPOSED CONSERVATOR)*

*Each proposed conservator must fill out and file a separate screening form.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 2 March 2, 2009 not approved by the Judicial Council	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:	
GUARDIANSHIP OF (Name): _____ <div style="text-align: right;">MINOR</div>	HEARING DATE AND TIME: _____ DEPT.: _____	
PETITION FOR APPOINTMENT OF GUARDIAN OF <input type="checkbox"/> MINOR <input type="checkbox"/> MINORS <input type="checkbox"/> Person* <input type="checkbox"/> Estate*		

1. **Petitioner** (name each):

requests that

a. (Name): _____
 (Address and telephone): _____

be appointed guardian of the PERSON of the minor or minors named in item 2 and Letters issue upon qualification.

b. (Name): _____
 (Address and telephone): _____

be appointed guardian of the ESTATE of the minor or minors named in item 2 and Letters issue upon qualification.

- c. (1) bond not be required because the petition is for guardian of the person only because the proposed guardian is a corporate fiduciary or an exempt government agency for the reasons stated in Attachment 1c.
- (2) \$ _____ bond be fixed. It will be furnished by an authorized surety company or as otherwise provided by law. (Specify reasons in Attachment 1c if the amount is different from the minimum required by Prob. Code, § 8482.)
- (3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location): _____

d. authorization be granted under Probate Code section 2590 to exercise the powers specified in Attachment 9.

e. orders relating to the powers and duties of the proposed guardian of the person under Probate Code sections 2351–2358 be granted (specify orders, facts, and reasons in Attachment 1e).

f. an order dispensing with notice to the persons named in Attachment 10 be granted.

g. other orders be granted (specify in Attachment 1g).

2. Attached is a copy of *Guardianship Petition—Child Information Attachment* (form GC-210(CA)) for **each** minor for whom this petition requests the appointment of a guardian. The full legal name and date of birth of each minor is :

- a. Name: _____ Date of Birth (month/day/year): _____
- b. Name: _____ Date of Birth (month/day/year): _____
- c. Name: _____ Date of Birth (month/day/year): _____
- d. Name: _____ Date of Birth (month/day/year): _____

The names and dates of birth of additional minors are specified on Attachment 2 to this petition.

*** You MAY use this form or form GC-210(P) for a guardianship of the person. You MUST use this form for a guardianship of the estate or the person and estate. Do NOT use this form for a temporary guardianship.**

GUARDIANSHIP OF (Name): <div style="text-align: right; margin-top: 10px;">MINOR</div>	CASE NUMBER:
--	----------------------

3. Petitioner is
- a. related to the minor or minors named in item 2, as shown in item 7 of each minor's attached form GC-210(CA).
 - b. the minor named in item 2, who is 12 years of age or older.
 - c. other person on behalf of minor or minors named in item 2, as shown in item 7 of each minor's attached form GC-210(CA).
4. The proposed guardian is (check all that apply):
- a. a nominee (affix a copy of nomination as Attachment 4a or file Nomination of Guardian (form GC-211, items 2 and 3) with this petition.
 - b. related to the minor or minors named in item 2, as shown in item 3 of each minor's attached form GC-210(CA).
 - c. other, as shown in item 3 of each minor's attached form GC-210(CA).
 - d. a professional fiduciary within the meaning of the Professional Fiduciaries Act. The proposed guardian's license status is shown in item 1 on page 1 of the attached Professional Fiduciary Attachment. (Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.)
5. Petitioner, with intent to adopt, has accepted or intends to accept physical care or custody of the minor.
6. A person other than the proposed guardian has been nominated as the guardian of the minor by will other writing. A copy of the nomination is affixed as Attachment 6. (Specify name and address of nominee in item 2 of minor's attached form GC-210(CA).)
7. **Character and estimated value of property of the estate** (complete if petition requests appointment of a guardian of the estate or the person and estate):
- a. Personal property: \$ _____
 - b. Annual gross income from all sources, including real and personal property, wages, pensions, and public benefits: \$ _____
 - c. **Total:** \$ _____
 - d. Real property: \$ _____
8. Appointment of a guardian of the person estate of the minor or minors named in item 2 is necessary or convenient for the following reasons:

- Continued in Attachment 8. Parental custody would be detrimental to the minor or minors named in item 2.
9. Granting the proposed guardian of the estate powers to be exercised independently under Probate Code section 2590 would be to the advantage and benefit and in the best interest of the guardianship estate. Reasons for this request and the powers requested are specified in Attachment 9.
10. Notice to the persons named in Attachment 10 should be dispensed with under Probate Code section 1511 because
- they cannot with reasonable diligence be given notice (specify names and efforts to locate in Attachment 10).
 - giving notice to them would be contrary to the interest of justice (specify names and reasons in Attachment 10).

CONFIDENTIAL (DO NOT ATTACH TO PETITION)

GC-212

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY Draft 3 March 2, 2009 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
GUARDIANSHIP OF _____ <i>(Name):</i>	CASE NUMBER: _____
CONFIDENTIAL GUARDIAN SCREENING FORM Guardianship of <input type="checkbox"/> Person <input type="checkbox"/> Estate	HEARING DATE AND TIME: _____ DEPT.: _____

The proposed guardian must complete and sign this form. The person requesting appointment of a guardian must submit the completed and signed form to the court with the guardianship petition.

This form must remain confidential.

How This Form Will Be Used

This form is **confidential** and will not be a part of the public file in this case. Each proposed guardian must complete and sign a separate copy of this form under rule 7.1001 of the California Rules of Court. The information provided will be used by the court and by persons and agencies designated by the court to assist the court in determining whether to appoint the proposed guardian as guardian. The proposed guardian **must** respond to each item.

1. a. **Proposed guardian (name):**
 b. Date of birth: _____
 c. Social security number: _____ d. Driver's license number: _____ State: _____
 e. Telephone numbers: Home: _____ Work: _____ Other: _____
2. I am I am not required to register as a sex offender under California Penal Code section 290.
(If you checked "I am," explain in Attachment 2.)
3. I have I have not been charged with, arrested for, or convicted of a crime deemed to be a felony or a misdemeanor. *(If you checked "I have," explain in Attachment 3.)*
 (Check here if you have been arrested for drug or alcohol-related offenses.)
4. I have I have not had a restraining order or protective order filed against me in the last 10 years.
(If you checked "I have," explain in Attachment 4.)
5. I am I am not receiving services from a psychiatrist, psychologist, or therapist for a mental health-related issue.
(If you checked "I am," explain in Attachment 5.)
6. Do you, or does any other person living in your home, have a social worker or parole or probation officer assigned to him or her?
 Yes No *(If you checked "Yes," explain in Attachment 6 and provide the name and address of each social worker, parole officer, or probation officer.)*
7. Have you, or has any other person living in your home, been charged with, arrested for, or convicted of any form of child abuse, neglect, or molestation? Yes No *(If you checked "Yes," explain in Attachment 7.)*
8. I am I am not aware of any reports alleging any form of child abuse, neglect, or molestation made to any agency charged with protecting children (e.g., Child Protective Services) or any other law enforcement agency regarding me or any other person living in my home. *(If you checked "I am," explain in Attachment 8 and provide the name and address of each agency.)*
9. Have you, or has any other person living in your home, habitually used any illegal substances or abused alcohol?
 Yes No *(If you checked "Yes," explain in Attachment 9.)*

GUARDIANSHIP OF (Name): <div style="text-align: right;">MINOR</div>	CASE NUMBER:
--	--------------------------

10. Have you, or has any other person living in your home, been charged with, arrested for, or convicted of a crime involving illegal substances or alcohol?
 Yes No *(If you checked "Yes," explain in Attachment 10.)*
11. Do you or does any other person living in your home suffer from mental illness?
 Yes No *(If you checked "Yes," explain in Attachment 11.)*
12. Do you suffer from any physical disability that would impair your ability to perform the duties of guardian?
 Yes No *(If you checked "Yes," explain in Attachment 12.)*
13. I have or may have I do not have an adverse interest that the court may consider to be a risk to, or to have an effect on, my ability to faithfully perform the duties of guardian.
(If you checked "I have or may have," explain in Attachment 13.)
14. I have I have not previously been appointed guardian, conservator, executor, or fiduciary in another proceeding.
(If you checked "I have," explain in Attachment 14.)
15. I have I have not been removed as guardian, conservator, executor, or fiduciary in any other proceeding.
(If you checked "I have," explain in Attachment 15.)
16. I am I am not a private professional fiduciary, as defined in Business and Professions Code section 6501(f).
(If you checked "I am," respond to item 17. If you checked "I am not," go to item 18.)
17. I am I am not currently licensed by the Professional Fiduciaries Bureau of the Department of Consumer Affairs. My license status and information is stated in item 1 on page 1 of the Professional Fiduciary Attachment signed by me and attached to the petition that proposes my appointment as guardian in this matter. *(Complete and sign the Professional Fiduciary Attachment and attach it to the petition, or deliver it to the petitioner for attachment, before the petition is filed. See item 4d of the petition. Use form GC-210(A-PF)/GC-310(A-PF) for this attachment.)*
18. I am I am not a responsible corporate officer authorized to act for *(name of corporation):*

a California nonprofit charitable corporation that meets the requirements for appointment as guardian of the proposed ward under Probate Code section 2104. I certify that the corporation's articles of incorporation specifically authorize it to accept appointments as guardian. *(If you checked "I am," explain the circumstances of the corporation's care of, counseling of, or financial assistance to the proposed ward in Attachment 18.)*
19. I have I have not filed for bankruptcy protection within the last 10 years.
(If you checked "I have," explain in Attachment 19.)

MINORS' CONTACT INFORMATION		
20. Minor's name:	School (name):	
Home telephone:	School telephone:	Other telephone:
21. Minor's name:	School (name):	
Home telephone:	School telephone:	Other telephone:
22. Minor's name:	School (name):	
Home telephone:	School telephone:	Other telephone:
<input type="checkbox"/> Information on additional minors is attached.		

DECLARATION

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

Date:

(TYPE OR PRINT NAME OF PROPOSED GUARDIAN)



(SIGNATURE OF PROPOSED GUARDIAN)*

* Each proposed guardian must fill out and file a separate screening form.

GUARDIANSHIP OR CONSERVATORSHIP OF <i>(Name)</i> : <div style="text-align: right; padding-right: 50px;">MINOR OR CONSERVATEE</div>	CASE NUMBER:
---	--------------

**PROFESSIONAL FIDUCIARY ATTACHMENT TO
PETITION FOR APPOINTMENT OF GUARDIAN OR CONSERVATOR**

*(A professional fiduciary petitioning for appointment or proposed for appointment on the petition of another must complete page 1 of this form, and the form must be attached to (1) a Petition for Appointment of Guardian of Minor (form GC-210) if the professional is proposed for appointment as guardian of a minor (see paragraph 4d of form GC-210); or (2) a Petition for Appointment of Probate Conservator (form GC-310) if the professional is proposed for appointment as conservator (see paragraph 3c(7) of form GC-310). If the professional fiduciary is licensed and is petitioning for appointment as conservator, he or she must also complete page 2 of this form (see paragraph 3d of form GC-310). **The professional fiduciary must date and sign this form on page 2 in all cases.**)*

(Name of professional fiduciary):

Attachment to form (GC-210 or GC-310): _____

1. I am a proposed guardian conservator in this matter. I am a professional fiduciary, as defined in Business and Professions Code section 6501(f). I am:
 - a. Licensed by the Professional Fiduciaries Bureau, license no. *(specify)*: _____, issued or last renewed on *(specify later date of issuance or last renewal)*:
 - b. Exempt from the license requirements of the Professional Fiduciaries Act as an attorney licensed under the State Bar ~~Act~~ State Bar number *(specify)*:
 - c. Exempt from the license requirements of the Professional Fiduciaries Act while acting within the scope of practice of my profession as:
 - (1) A Certified Public Accountant licensed by the California State Board of Accountancy, license no. *(specify)*: _____ current expiration date *(specify)*:
 - (2) An enrolled agent authorized to practice before the Internal Revenue Service under federal regulations (31 C.F.R. § 10), expiration date of current enrollment period *(specify)*:
 - (3) My actions as guardian or conservator would be within the scope of practice of my profession by reason of the following facts *(explain)*:

The explanation cannot be completed in this space. It is contained in _____ attached pages.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act
(revise forms GC-210, GC-212, GC-310, and GC-314).**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
1.	California Association of Legal Document Assistants (CALDA) by Ms. Angie Walters Legislative Chairman Roseville	AM	California Association of Legal Document Assistants ("CALDA"), Legal Document Assistants("LDAs") request that space be created on Judicial Council forms for registered LDA information that must be placed on all forms, petitions, and pleadings prepared by an LDA by Business and Professions Code section 6408 (registrant's name; address; telephone; registration number, expiration date, and county of registration).	This comment was made by CALDA concerning all winter-cycle forms proposals. Staff to this and other advisory committees will consider CALDA's comment and whether to make changes to any Judicial Council forms at a later time.
2.	J. B. Allen Family Trust by Ms. Tina L. Allen Spouse Highland	N	This commentator complained about the disposition of litigation in a particular case in which the commentator was a participant. No comments are directed to the proposal under consideration.	No response necessary.
3.	Mr. Gary Todd Lawrence Emergency Medical Technician Acadian Ambulance Lake Charles, Louisiana	N	This commentator expressed concern about the Supreme Court's recent decision concerning the Good Samaritan Law. No comments are directed to the proposal under consideration.	No response necessary.
4.	Ms. Debra Matheney Manager of Family Court Services Superior Court of Kern County Bakersfield	AM	I would like to see phone numbers added to item 11 of the petition. This would aid court investigators in contacting relatives.	The advisory committee wishes to consider this recommendation but is concerned that the statute, Probate Code section 1821, fully prescribes the required contents of the conservatorship petition. Section 1821 calls for the names and addresses of the proposed conservatee's spouse/Registered Domestic Partner, and second degree relatives, to the extent known to the petitioner, but does not

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
				<p>require their telephone numbers. Calling for this additional information, whether by revising the form or by rule of court, could be construed as inconsistent with the statute</p> <p>In addition, persons identified in the petition may object to their telephone numbers being disclosed in this very public way.</p> <p>The committee will consider this recommendation further.</p>
5.	Professional Fiduciaries Bureau by Ms. Mellonie Yang Chief West Sacramento	AM	<p>The Professional Fiduciaries Bureau (Bureau) licenses professional fiduciaries subject to the licensing mandates of the Professional Fiduciaries Act (Act) under Chapter 6 (commencing with Section 6500) of Division 3 of the Business and Professions Code. Under Section 6530, there are three exclusions from the requirement of holding a license to act or hold oneself out as a professional fiduciary. These are:</p> <ul style="list-style-type: none"> • A person licensed as an attorney under the State Bar Act (section 6530(b)); • A person licensed as, and acting within the scope of practice of, a certified public accountant (section 6530(c)); and • A person enrolled as an agent to practice before the Internal Revenue 	

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04

Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations (section 6530(d)).</p> <p>On behalf of the Bureau, I respectfully request your consideration of my comments related to the proposed changes to the Conservatorship and Guardianship Forms.</p> <p>In screening professional fiduciaries for appointment to cases it is necessary for the courts to determine a person’s qualification. In this matter please consider the following:</p> <p>1. It is my recommendation that there should be two separate boxes to check, one for attorneys and one for Certified Public Accountants (CPA) excluded under the Act.</p> <p>For attorneys and CPAs, the Legislature made a determination that California licensed attorneys and CPAs do not need to be licensed by the Bureau to act as professional fiduciaries. Any activity of a California attorney acting as a professional fiduciary would be subject to the jurisdiction of the California State Bar. Similarly, any activity of a CPA acting as a professional fiduciary would be regulated by the California Board of Accountancy.</p>	<p>1. The proposed professional fiduciary attachment, for use with the guardianship and conservatorship petitions, would have selections for all three exempt or partially exempt professions, attorneys, CPAs, and enrolled agents..</p> <p>The advisory committee respectfully disagrees with this interpretation of section 6530. That statute has a limitation applicable to Certified Public Accountants (CPAs): the exemption from licensure applies only to conduct as a professional fiduciary that is within the scope of practice of a CPA. Section 6530 does not contain such a limitation for attorneys.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04

Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act
 (revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>2. As it relates to attorneys and CPAs, in order to assist in the courts business on these matters, it is my recommendation to require additional information on the forms when either of these boxes are selected. The forms should include the petitioner’s license number as an attorney or CPA, and the status of the license for easy verification.</p> <p>3. For enrolled agents however, the exclusion in the Act is different. The purpose of the exclusion by the Legislature is to notify the Bureau and enrolled agents that activity as enrolled agents in California is not governed by the Bureau but by federal authority. This section however, does not permit an enrolled agent to act as a professional fiduciary in California without being licensed by the Bureau. Therefore, the form should not include a box to select for an exemption as an enrolled agent.</p> <p>The enrolled agents’ provision in the Act provides: “This section does not apply to a person enrolled as an agent to practice before the Internal Revenue Service who is acting within the scope of practice pursuant to Part 10 of Title 31 of the Code of Federal Regulations”. Basically, it is not possible for an enrolled agent to act as a professional fiduciary under the scope of authority of the enrolled agent</p>	<p>2. The proposed professional fiduciary attachment would call for the attorney’s or CPA’s license number and the renewal status of the CPA’s license.</p> <p>3. The advisory committee respectfully disagrees with this interpretation of the Professional Fiduciaries Act. The exclusions for enrolled agents and CPAs are limited in the same way, by identical language. The exclusion applies to both professions, but only to the extent that the fiduciary’s actions are within the scope of practice of those professions.</p> <p>Section 6530(d) expressly permits an enrolled agent to act as a professional fiduciary without licensure by the Bureau to the extent that his or her actions are within the scope of practice of an enrolled agent.</p> <p>The advisory committee has concluded that, under tenets of statutory construction, section 6530(d) cannot be interpreted to nullify the exclusion of enrolled agents expressly provided there. The committee must give effect to the plain language of the statute.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04

Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>certificate therefore this exception would never apply. The enrolled agent certification only authorizes enrolled agents to practice before the IRS in representation of clients as indicated by the authority granted by federal regulations:</p> <p>“Practice before the Internal Revenue Service comprehends all matters connected with a presentation to the Internal Revenue Service or any of its officers or employees relating to a taxpayer’s rights, privileges, or liabilities under laws or regulations administered by the Internal Revenue Service. Such presentations include, but are not limited to, preparing and filing documents, corresponding and communicating with the Internal Revenue Service, rendering written advice with respect to any entity, transaction, plan or arrangement, or other plan or arrangement having a potential for tax avoidance or evasion, and representing a client at conferences, hearings and meetings.” (Section 10.2 of Subpart A, Rules Governing Authority to Practice, of Part 10 of Title 31 of the Code of Federal Regulations)</p> <p>Therefore, an enrolled agent acting as a professional fiduciary would be in violation of the law and this provision should not be an exclusion choice on the GC 310 or GC 212 or either of the confidential screening forms. By including this as an option it will create confusion, facilitate unlicensed activity, and</p>	<p>Courts will be required to determine, when considering the appointment as a conservator or guardian of an enrolled agent who is a professional fiduciary within the meaning of Business and Professions Code section 6501(f), whether the agent’s activities as conservator or guardian are within the scope of practice of an enrolled agent. If not, Probate Code section 2340 would prevent the court from appointing him or her unless he or she is licensed by the Bureau. Item 1c(3) on the first page of the proposed Professional Fiduciary Attachment addresses that determination.</p> <p>The advisory committee must respectfully decline to adopt this recommendation. Business and Professions Code section 6530(d) provides an exemption from licensure for enrolled agents. At this time, the Professional Fiduciaries Bureau does</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04

Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>could in fact cause harm by allowing the practice of a professional fiduciary outside the regulation of the Bureau. Under licensing, the Bureau screens applicants, and as mandated by law, collects information from licensees and reports certain information to the public on the Bureau’s website and certain confidential information to the courts, thus providing consumer protection.</p> <p>4. If there are any options kept on the forms for exclusion though, any reference and all related supporting facts/documents, should be expressly included on, and/or attached to, the CG 310 and CG 210 forms, not only in the, or attached to, the confidential screening forms. This would allow for these claims to be part of the public record not merely part of a confidential court file.</p> <p>Any justification for exclusions and supporting facts are important as it forms a basis for a person’s qualification or exclusion under the licensing Act. An open process creates good public policy and will for provide for public confidence in the appointment of conservators and guardians to manage the most intimate affairs of consumers involving personal and health care matters, and financial management.</p> <p>The Bureau suggests considering an alternative</p>	<p>not have regulations stating that an enrolled agent cannot be exempt from licensure by the bureau to be appointed as a guardian or conservator. Therefore, the relevant forms that inquire into a professional fiduciary’s license status must provide for the statutory exemption expressed in section 6530(d). Item 1c(3), on page 1 of the Professional Fiduciary Attachment, requires anyone claiming this exemption to explain how his or her actions as conservator or guardian are within the scope of practice of his or her exempt profession.</p> <p>4. The advisory committee agrees with this recommendation. The proposed professional fiduciary attachment to the guardianship and conservatorship petitions (forms GC-310 and GC-210) contains the licensure and exemption information, not the confidential screening forms (forms GC-314 and GC-212).</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>to a closed process for justifying claims because it could also shield important information from being available for the Bureau to discover and investigate possible cases of unlicensed activity. Unlicensed activity contravenes the purpose of the creation of the Professional Fiduciaries Bureau and passage of the licensing Act to provide for state oversight and consumer protection. Furthermore, unlicensed activity is a clear violation of the licensing laws and a misdemeanor violation under Business and Professions Code Section 16240.</p> <p>There might be instances where it is justified to keep information regarding petitioners confidential, out of the view of the public. For example, it would be unfair to disclose irrelevant information to the public that would be prejudicial to a case at hand. Furthermore, there is justification to keep certain consumer information involving rights of privacy and confidential information, such as medical history, in protected court files.</p>	
6.	Ms. Diana Slater [address, position, and affiliation not provided]	NI	<p>Re GC-310 Putting the proposed conservator's licensing data in the top box above 1 is duplicative and unlike other forms where Legal Document Assistant or Unlawful Detainer Assistant information is placed near the end of the form.</p>	The advisory committee agrees with this recommendation, particularly because the license information has been restored to the petition and the proposed professional fiduciary attachment from the confidential screening form. The professional fiduciary's license information has been removed from the caption box at the top of

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act**
(revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>Item 3d. Because the statements regarding who engaged petitioner must be attached for either a temporary or general conservatorship, perhaps there could be just one selection which combines the two statements.</p> <p>The other forms look great.</p>	<p>page 1.</p> <p>Item 3d. The advisory committee does not support this recommendation. The statements in the temporary conservatorship petition (form GC-111), a separate form, are already in place. The new law now also requires them in the general petition so they are added to that petition. Many general petitions are presented without applications for temporary appointments. In those cases, this information must be provided in the petition or in an attachment to it. Moreover, if there is a temporary petition containing the statements filed in the case, the statute and the revised general petition (form GC-310) provide that they do not have to be repeated in the general petition.</p>
7.	Trusts and Estates Section State Bar of California Mr. Edward J. Corey, Jr. Advisor Sacramento	AM	We would like to see and support a version of Form GC-310 that would expressly identify the exemptions under Section 6530(b), (c), and (d) and directly require unlicensed professional fiduciaries claiming the exemption to demonstrate their applicability in the petition, rather than placing this inquiry in the confidential screening forms for both conservators and guardians, Forms GC-314 and GC-212, respectively.	The advisory committee agrees with the recommendation that the exemption information should be requested in the conservatorship and guardianship petitions (and provided in an attachment to those petitions), not the confidential screening forms. This change has been made.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act**
(revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
8.	Superior Court of Kings County by Ms. Krystina Cifuentez Deputy Court Administrator III Hanford	A	No specific comment.	No response necessary.
9.	Superior Court of Los Angeles County Los Angeles	AM	<p>1. Paragraph 3d. should require completion when the petitioner is a Professional Fiduciary and should not be limited to those persons licensed by the Professional Fiduciaries Bureau.</p> <p>Overall it seems that forms would be clearer if most provisions concerning private professional fiduciaries were contained in a single attachment (the attachment could be designated for use in both guardianship and conservatorship proceedings).</p> <p>The attachment would require completion when the petitioner is a professional fiduciary or when another is seeking the appointment of a professional fiduciary (PF). Like the Confidential Screening Form (GC-314), the attachment could require the signature and verification of the petitioning PF or the</p>	<p>1. The advisory committee disagrees with this recommendation. The statute, Probate Code section 1821(c), calls for the information in item 3d of revised form GC-310 when the petitioner is licensed under the Professional Fiduciaries Act, not when the petitioner is within the definition of a professional fiduciary but exempt from licensure.</p> <p>The advisory committee agrees with this recommendation, and has created and proposed adoption of a mandatory form for professional fiduciary information to be attached to both conservatorship and guardianship petitions. That information would be removed from the confidential screening forms, in light of the comments of the Professional Fiduciaries Bureau and the Trusts and Estates Section of the State Bar, noted above.</p> <p>The new attachment form proposed by the advisory committee (form GC210(A-PF)/GC-310(A-PF)) calls for the signature of the professional fiduciary under penalty of perjury. The attachment would be required in all cases where a professional fiduciary is the proposed appointee, in order to provide his or her license</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04

Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			<p>proposed PF as appropriate.</p> <p>Either a new paragraph could be added to the Petition for Probate Conservator (GC-310) requiring completion of the attachment in either situation. In the alternative, the petition could provide in paragraphs 3b that if the petitioner is a PF and in 3c if the proposed conservator is a PF, that the PF must complete the attachment. Similar provisions could be included in the Petition for Appointment of Probate Guardian when revised.</p> <p>This would simplify the proposed forms by deleting most PF information contained in paragraphs 3b(12), 3c(7), 3d and 3f of the petition and paragraphs 17 and 18 of the screening form and including it in a single PF attachment.</p> <p>2. Changes to the current Guardianship Petition and Child Information Attachment (forms GC-210 and GC-210(CA), to include required language for the appointment of PFs, should be made only if they are contained in the amendment format described above. Adding PF provisions, similar to those proposed for the Petition for Appointment of Probate Conservator and Confidential Conservator Screening Form, to existing guardianship forms, would merely make the forms longer and more confusing. Most petitioners in guardianship</p>	<p>information (page 1 of the new attachment form). However, the information required by Probate Code section 1821 concerning the fiduciary’s engagement in the case and prior relationship with the conservatee or those close to him or her (Item 3d of form GC-310, page 2 of new attachment form) would be required only if the professional is a petitioner, not if he or she is to be appointed on the petition of another.</p> <p>2. The advisory committee agrees with this recommendation. The proposed new attachment form is designed to be used in both guardianships and conservatorships. The standard-format guardianship petition, form GC-210, is changed by adding a new item 4d calling for a professional fiduciary proposed as guardian to provide his or her license information in the attachment form.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W09-04**Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (revise forms GC-210, GC-212, GC-310, and GC-314).**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Advisory Committee Response
			proceedings are pro per who already have difficulty completing the forms.	
10	Superior Court of Sacramento County Mr. Robert Turner ASO II Research & Evaluation Division Sacramento	NI	The Superior Court of California, County of Sacramento has reviewed the Changes in Conservatorship and Guardianship Forms to Reflect 2008 Legislation and the Professional Fiduciaries Act (W09-04) and does not have a position at this time.	No response necessary.
11	Superior Court of San Diego County by Mr. Michael M. Roddy Executive Officer San Diego	A	No specific comment.	No response necessary.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.