

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

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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,
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DATE: February 20, 2007

SUBJECT: Probate: Private Professional Guardian and Conservator
Qualification and Continuing Education Reports (revise Judicial
Council forms GC-005 and GC-006)(Action Required)

Issue Statement

The Declaration of Private Professional Conservator or Guardian—Qualifications (form GC-005) and the *Declaration of Private Professional Conservator or Guardian—Continuing Education* (form GC-006) must be used by private professional guardians or conservators to show appointing courts that they are qualified under rules 7.1010 (guardians) or 7.1060 (conservators) of the California Rules of Court, and have completed the continuing education required by these rules. These forms are filed with appointing courts by professional guardians and conservators as part of their obligation to file annual information statements under Probate Code sections 2341–2344.

The local information statement obligation will be eliminated and replaced, effective on July 1, 2008, by a new licensure regime in the Department of Consumer Affairs for professional fiduciaries, including private professional guardians and conservators subject to these rules and forms, enacted as part of the Omnibus Conservatorship and Guardianship Reform Act of 2006 (“Omnibus Act”).¹

¹ The Omnibus Act is Stats. 2006, chapters 490–493 (respectively, SB 1116 (Scott), SB 1550 (Figueroa), SB 1716 (Bowen), and AB 1363 (Jones)). The licensure provisions are in Senate Bill 1550, which adds the Professional Fiduciaries Act to the Business and Professions Code, commencing with section 6500. Section 6 of Senate Bill 1550 provides that sections 2341–2344

The licensure provisions also feature new qualification and continuing education requirements for these fiduciaries that will replace the requirements of rules 7.1010 and 7.1060. The rules were amended effective January 1, 2007 to reflect these changes and to ease the transition to the new licensure requirements.²

Recommendation

The Probate and Mental Health Advisory Committee recommends that forms GC-005 and GC-006 be revised effective July 1, 2007, to correspond to amendments made to rules 7.1010 and 7.1060 effective on January 1, 2007, and to ease the transition to the new licensure regime for private professional guardians and conservators that will replace the forms and the rules on July 1, 2008.

Copies of revised forms GC-005 and GC-006 are attached at pages 5–10.

Rationale for Recommendation

Effective July 1, 2008, the Omnibus Act will replace Probate Code sections 2340–2344, the statutory basis for rules 7.1010 and 7.1060 and forms GC-005 and GC-006, with a comprehensive licensing system for private professional guardians, conservators, and other professional fiduciaries. The licensing agency will be a new Professional Fiduciaries Bureau in the executive branch of state government. This bureau will enforce the Omnibus Act’s qualifications and continuing education requirements and issue regulations to implement the new statutory mandate. The annual information statements that Probate Code section 2342 requires private professional guardians and conservators to file with the courts that appointed them, of which these forms were designed to be a part, will no longer be required.

However, Probate Code section 2342, rules 7.1010 and 7.1060, and forms GC-005 and GC-006 will continue to apply to private professional guardians and conservators until July 1, 2008. Changes in the rules and the forms are appropriate to ease the transition to the licensure provisions of the Act in the 18-month period from January 1, 2007 to July 1, 2008.

Rules 7.1010 and 7.1060 have already been amended, effective January 1, 2007. The changes proposed for forms GC-005 and GC-006 would conform to the changes in the amended rules.

of the Probate Code remain effective until July 1, 2008, and are repealed effective the following January.

² By council action on December 1, 2006, without circulation for public comment under rule 10.22.

Form GC-005

Item 6b on page 4 of this form would be modified to reflect the change in amended rules 7.1010(d)(2) and 7.1060(d)(2) that will permit professional fiduciaries who must take the fiduciary management course described in rules 7.1010(b)(3)(B) and 7.1060(b)(3)(B) to do so in 2007 and file proof of compliance by July 1, 2007, instead of before the end of 2006.

The text of the Notice on page 1 of the form would be revised to increase its clarity. The order of items 2 through 5 of the form would be changed to make item 3 in the revised form (item 2 in the original form), concerning a previously filed declaration, easier to understand. The instructions for this item would also be changed for the same purpose. No substantive changes would be made by these revisions.

The request for a fiduciary's current age would be deleted from the personal information item (item 4 of the revised form, on page 2; item 3 of the original form on page 1). The fiduciary's current age is unnecessary because his or her birth date must be stated.

Form GC-006

The form designed to show compliance with the continuing education provisions of rules 7.1010 and 7.1060 would be modified in its introductory notice text. The second paragraph of that text would be changed to refer only to the continuing education completed in 2007. Both the annual information statement required by Probate Code section 2342 and the continuing education requirements of the rules will become inoperative on July 1, 2008. No information statements will be required to be filed with appointing courts for years after 2007. However, the amended form would require professionals whose annual statement filing deadline falls after July 1, 2008 to file the statement showing compliance with the 2007 continuing education requirements of rules 7.1010 and 7.1060.

Alternative Actions Considered

Because of the requirements of the Omnibus Act, no alternatives to revision of the forms were considered.

Comments From Interested Parties

This proposal was circulated for comment in the Winter 2007 comment cycle to a special list of judicial officers, probate examiners and attorneys, other court staff interested in probate matters and assistance to unrepresented persons, 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.

Ten comments were received. Eight comments were entirely favorable and two were favorable with recommended modifications. The comment of Ms. Andrea Nelson, Director of Operations of the Superior Court, County of Butte, included her recommendations that the space at the top of both forms for the court's seal be eliminated and that the space for a fiduciary's file number be eliminated.

Space for the seal and for the court's address was provided in both forms so that courts could add their own seals and addresses to the forms before making them available to the fiduciaries practicing in their area. Because many courts reported that they had not done so, the advisory committee agreed with Ms. Nelson's recommendation to eliminate space for the seal. Both forms were revised to eliminate space for the seals, and the top portion of the forms reorganized to provide more space for a professional fiduciary filling out the form to add the court's address, as parties do in Judicial Council forms that are filed in case files.

The advisory committee believes, however, that the file number box on page 1 of each form should remain. The committee is informed that many courts maintain a separate file number for the annual statements and other information received about each professional fiduciary. Each fiduciary is aware of his or her number and is not likely to confuse that number with a case number.

The last sentence of the "Notice" statement in the text box on page 1 of form GC-006 says that the fiduciary must keep records of participation in continuing education for three years after the end of 2007. Ms. Tina Rasnow, the Senior Attorney/Coordinator of the Self Help Legal Access Center, Superior Court, County of Ventura, recommended that this sentence be changed to refer to three years after the filing of the form. The advisory committee elected not to change the language of this sentence because the statement filed for the period ending on December 31, 2007 will in fact be the last statement required before the duty to file statements will be replaced by the licensure provisions of the Omnibus Act. These provisions will be enforced by the newly-created Professional Fiduciaries Bureau in the Department of Consumer Affairs, not by the courts.

The chart showing the comments received and the advisory committee's responses is attached to this report at pages 11-13.

Implementation Requirements and Costs

These revised forms will result in the usual costs associated with the creation and distribution of any new or revised Judicial Council form.

<p align="center">SUPERIOR COURT OF CALIFORNIA, COUNTY OF</p> <p>STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:</p>	<p><i>FOR COURT USE ONLY</i></p>
<p>NAME OF PROFESSIONAL GUARDIAN OR CONSERVATOR (<i>specify</i>):</p>	<p>FILE NUMBER:</p>

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

NOTICE TO COURT-APPOINTED PRIVATE PROFESSIONAL CONSERVATORS OR GUARDIANS:

If you are a private professional conservator or guardian under Probate Code section 2341 and have been appointed by a court, you must annually file an information statement with each court that appointed you. Beginning with the first statement due after January 1, 2006, your information statement must show your qualifications to serve or continue to serve as a guardian or conservator under rules 7.1060(b) (conservators) or 7.1010(b) (guardians) of the California Rules of Court. You must make that showing by completing and signing this form and filing it as part of your information statement with each appointing court. One declaration is sufficient if you are both a private professional conservator and a private professional guardian. **You may be required by the court 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 annual statement due after December 31, 2007, your information statement must also show compliance with the continuing education requirements of rules 7.1060(e) or 7.1010(e) for the previous calendar year. You must complete and file a *Declaration of Private Professional Conservator or Guardian—Continuing Education* (form GC-006) with your 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. Personal or professional conduct (*complete in all cases*):

- I have not (*specify all that apply*):
- a. Been convicted of a misdemeanor involving abuse or neglect of a child or an elderly or dependent adult or of any felony.
 - b. Been determined to be liable in a civil action or proceeding for conversion, embezzlement, fraud, misappropriation, misrepresentation, or theft.
 - c. Been removed as a fiduciary by a court for actions involving breach of fiduciary duty, conversion, fraud, misappropriation, misrepresentation, or theft.

3. **Previous qualifications declaration filed** (*If you submitted this form with an annual statement previously filed with this court, you may check and complete this item and disregard all following items (except item 8) that request information 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.

CONFIDENTIAL—FOR COURT USE ONLY

GC-005

DECLARATION OF PRIVATE PROFESSIONAL <input type="checkbox"/> CONSERVATOR <input type="checkbox"/> GUARDIAN (Name):	CONCERNING QUALIFICATIONS FOR APPOINTMENT	FILE NUMBER:
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6. **Certificate in professional fiduciary management** (Unless item 3 applies, you must complete this item if you qualify for appointment under item 5a, 5b, 5d, or 5e of this form, but not under item 5c (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. **(2006 and 2007 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 or the first six months of 2007, and will supplement this declaration with proof of completion before July 1, 2007.
7. **Pre-2006 appointments as private professional conservator or guardian** (unless item 3 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 5a–5e 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 5a–5e 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	<i>FOR COURT USE ONLY</i>
STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE:	
NAME OF PROFESSIONAL GUARDIAN OR CONSERVATOR (<i>specify</i>):	FILE NUMBER:

**DECLARATION OF PRIVATE PROFESSIONAL CONSERVATOR GUARDIAN
 CONCERNING CONTINUING EDUCATION FOR THE _____ CALENDAR YEAR**

NOTICE: 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 from authorized providers listed or described in rules 7.1060(f)(2) and 7.1010(f)(2). (See rules 7.1060(e) and 7.1010(e).) A minimum of 5 hours 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.

With the first statement due after December 31, 2007, including statements that are due after July 1, 2008, 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 2007. 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 2007. 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:

<u>Provider</u>	<u>Subject</u>	<u>Hours</u>

Continued on Attachment 1a.

Subtotal hours: _____

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GC-006

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

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

W07-06

Probate: Professional Guardian and Conservator Reporting Forms
(revise Judicial Council forms GC-005 and GC-006)

	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
1.	Ms. Grace Andres Court Services Program Manager Superior Court of California County of Solano Fairfield	A	N	Agree with proposed changes.	No response necessary.
2.	Ms. Diane Altamirano Senior Court Managing Attorney Superior Court of California County of Imperial El Centro	A	Y	Agree with proposed changes. On behalf of our court, we approve the proposed changes to the rules of court and judicial council forms to become effective 7/1/07. Thank you.	No response necessary.
3.	Ms. Angela Bradrick Legal Research Attorney Superior Court of California County of Placer Auburn	A	N	Agree with proposed changes.	No response necessary.
4.	Ms. Debra Meyers Chief of Staff Counsel Superior Court of California County of San Bernardino San Bernardino	A	Y	Agree with proposed changes.	No response necessary.
5.	Ms. Andrea Nelson Director of Operations Superior Court of California County of Butte Oroville	AM	N	Agree with proposed changes if modified. Delete Court Seal. I would also suggest deleting the Case Number box. This form is commonly filed in the administrative file, for which a number is not required.	The advisory committee agrees with the recommendation to delete space for the court seal, but believes the file number box should remain. This space is for a professional fiduciary's annual statement file identification number. Some courts assign such numbers to each

W07-06

Probate: Professional Guardian and Conservator Reporting Forms
(revise Judicial Council forms GC-005 and GC-006)

	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
					<p>professional fiduciary’s annual information statement filings. Courts that do not use file numbers for their fiduciaries’ filings will advise them to simply ignore the box.</p> <p>The committee has revised both forms to delete the space for the court seal; modified the court address space to call for the person filing the statement to fill it in, as is done on most other Judicial Council forms; and used the space saved to provide a caption box for the professional guardian’s or conservator’s name to enhance the visual identification of each fiduciary’s report forms.</p>
6.	Ms. Sharon Ngim Staff Liaison to the Standing Committee on the Delivery of Legal Services The State Bar of California San Francisco	A	Y	SCDLS supports the proposed changes because they are intended to facilitate interim reporting requirements imposed by new legislation.	No response necessary.
7.	Ms. Tina Rasnow Senior Attorney/Coordinator Self Help Legal Access Center	AM	N	Agree with proposed changes if modified. On form GC-006, in the last paragraph where it requires proof of completion of continuing	The advisory committee does not support the proposed modification. This form will go out of service

W07-06

Probate: Professional Guardian and Conservator Reporting Forms
(revise Judicial Council forms GC-005 and GC-006)

	Commentator	Position	Comment on behalf of group?	Comment	Response of Probate and Mental Health Advisory Committee
	Superior Court of California County of Ventura Ventura			education requirements be maintained for three years “after the end of 2007,” it makes more sense to state “after the filing of this declaration.”	with the underlying law it supports when the Professional Fiduciary Act, SB 1550, goes into effect on July 1, 2008. The continuing education records will have to be kept by professional fiduciaries for possible court audit only for the three year period after 2007.
8.	Mr. Michael Roddy Executive Officer Superior Court of California County of San Diego San Diego	A	Y	Agree with proposed changes. No additional comments.	No response necessary.
9.	Mr. Ben Stough Court Executive Officer Superior Court of California County of Mendocino Ukiah	A	N	Agree with proposed changes.	No response necessary.
10.	Ms. Jan Weaver Unit Manager Superior Court of California County of Placer Auburn	A	N	Agree with proposed changes.	No response necessary.