

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

455 Golden Gate Avenue  
San Francisco, California 94102-3688

**Report**

TO: Members of the Judicial Council

FROM: Probate and Mental Health Advisory Committee  
Hon. Don Edward Green, Chair  
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DATE: September 10, 2008

SUBJECT: Probate—Guardianships and Conservatorships: Good Faith  
Exceptions to Notice of Hearings on Petitions for Appointment of  
Temporary Guardians and Conservators (amend Cal. Rules of Court,  
rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140;  
approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115;  
and adopt form GC-141) (Action Required)

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Issue Statement

Rules 7.1012 and 7.1062, adopted by the Judicial Council effective January 1, 2008, govern good cause exceptions to notice of hearing on petitions for appointment of temporary guardians and conservators required by Probate Code section 2250(e). The current notice requirements of section 2250(e) were added and these rules were mandated by the Omnibus Conservatorship and Guardianship Reform Act of 2006.<sup>1</sup>

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<sup>1</sup> Stats 2006, ch. 490–493, referred to in this report as the Omnibus Act. The notice requirements of current Prob. Code, § 2250(e), then designated as § 2250(c), were added by Stats 2006, ch. 493 (Assem. Bill 1363), § 15. The Judicial Council rule mandate was enacted as § 2250(k), then designated as § 2250(j), added by the same section of chapter 493. Subdivisions (c) and (j) of § 2250 became subdivisions (e) and (k), respectively, in 2007, when new subdivisions (c) and (d) were added. (See Stats. 2007, ch. 553 (Assem. Bill 1727), § 12.)

Section 2250(e) requires that at least five days' written notice of the hearing on a petition for appointment of a temporary guardian or conservator and a copy of the petition be delivered to the proposed ward, if he or she is at least 12 years old, and his or her parents in a guardianship; or to a proposed conservatee and his or her spouse or registered domestic partner and close relatives in a conservatorship "[u]nless the court for good cause otherwise orders." Section 2250(k) required the Judicial Council, on or before January 1, 2008, to "adopt a rule of court that establishes

Rules 7.1012(e) and 7.1062(e) require the application for a good cause exception to notice to be separate from the petition for appointment of a temporary guardian (rule 7.1012) or conservator (rule 7.1062). This requirement may work an undue and unnecessary hardship on the majority of temporary guardianship petitioners, who are unrepresented persons seeking the appointment of a temporary guardian of the person of a minor child with no estate. The requirement is also inconsistent with the *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P)), a plain-language alternative form petition adopted by the council in 2007, designed and intended primarily for use by unrepresented persons. This form contains an application for an exception to notice of the hearing on the petition.

The requirement in rules 7.1012(e)(4) and 7.1062(e)(4) of a separate memorandum of points and authorities in support of an application for an exception to notice is unnecessary. These applications tend to be fact-based. Their disposition ordinarily does not depend on consideration of complex statutory or decisional authorities or legal argument.

The Probate Conservatorship Task Force recommended the development of a “standardized ex parte application for a temporary conservatorship.”<sup>2</sup> A standardized petition for appointment of a temporary conservator already exists, a mandatory Judicial Council form.<sup>3</sup> After enactment of the notice requirements of section 2250(e), the task force’s recommendation became, in substance, a request for development of a standardized application for an exception to those requirements. A successful application for an exception to notice is the only way, under current law, that a petition for appointment of a temporary conservator could become an ex parte application for a temporary conservatorship.

Although separate temporary guardianship and temporary conservatorship petitions have recently been adopted to replace the single form that had combined these petitions, the *Order Appointing Temporary Guardian or Conservator* (form GC-140) remains a dual-use form.

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uniform standards for good cause exceptions to the notice required by subdivision (c) [subdivision (e) after the 2007 amendment of section 2250 noted above] . . . .”

<sup>2</sup> See Judicial Council of Cal., *Recommended Practices for Improving the Administration of Justice in Probate Conservatorship Cases*, Final Report of the Probate Conservatorship Task Force (October 2007), Recommendation No. 2, page 8.

<sup>3</sup> *Petition for Appointment of Temporary Conservator* (form GC-111), adopted by the Judicial Council effective July 1, 2008. This form replaces a mandatory dual-use petition for appointment of either a temporary conservator or a temporary guardian, designated as form GC-110. That form was revised to become solely a petition for appointment of a temporary guardian, also effective on July 1, 2008.

### Recommendation

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

1. Amend rule 7.1012 of the California Rules of Court to permit an application for a good cause exception to notice of a petition for appointment of a temporary guardian to be included in the *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P));
2. Amend rules 7.1012 and 7.1062 to delete the requirement that a memorandum must be filed with an application for an exception to notice;
3. Revise form GC-110(P) to clarify the requirements for the application for an exception to notice included in the form and revise the *Order Appointing Temporary Guardian or Conservator* (form GC-140) to become exclusively an order appointing a temporary guardian;
4. Approve *Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator* (form GC-112 ) as the standard application for a good cause exception to notice of the hearing on a petition for appointment of a temporary conservator; *Declaration in Support of Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator* (form GC-112(A-1) and *Declaration Continuation Page* (form GC-112(A-2)) as a declaration in support of the application; and *Order on Ex Parte Application for Good Cause Exception to Notice of Hearing on Petition for Appointment of Temporary Conservator* (form GC-115) as an order on the application; and
5. Adopt *Order Appointing Temporary Conservator* (form GC-141).

The text of amended rules 7.1012 and 7.1062 is attached at pages 10–12; the revised forms GC-110(P) and GC-140 and new forms GC-112, GC-112(A-1), GC-112(A-2), GC-115, and GC-141 are attached at pages 13–27.

### Rationale for Recommendation

#### *Rules 7.1012 and 7.1062 and form GC-110(P)*

The advisory committee believes that the separate application requirement of rules 7.1012(e) and 7.1062(e)—modeled after rule 3.1201, governing ex parte applications for relief in civil cases—is sound because the requirement forces the applicant to focus on the showing of need for an exception to notice during the short notice period of section 2250(e) instead of the showing of need for the appointment of the temporary guardian or conservator. However, this requirement makes an already complex process even more confusing and difficult for unrepresented persons, who are a majority of the petitioners for appointment of general and temporary guardians of the persons of children.

The requirement is also inconsistent with the plain-language *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P)), a form designed for use by unrepresented petitioners. That form contains an application for an exception to notice, part of item 9 on page 3 of the form. Either rule 7.1012(e) or form GC-110(P) must be changed.

The advisory committee believes an exception to the general rule should be permitted for petitioners who use form GC-110(P). The committee proposes an amendment of rule 7.1012(e) to permit these petitioners to continue to include their applications for an exception to notice in their petitions. The committee also proposes a revision of item 9 of the form to refer to rule 7.1012 and provide additional instructions concerning the application for an exception to notice on a new page 4 of the form. The additional page would also permit more space for the showing of good cause for the exception at the bottom of page 3 of the form.

This proposal would also amend rules 7.1012 and 7.1062 to eliminate the requirement of a memorandum in support of all applications for an exception to notice of hearing of petitions for the appointment of temporary guardians or conservators. Most applications do not require extensive legal arguments. They turn on their facts, not on analysis or exposition of the law authorizing or limiting them. Probate legal staffs and judicial officers are fully aware of the requirements of section 2250 and the new rules of court.

#### *Application for exceptions to notice*

In response to the recommendation of the Probate Conservatorship Task Force noted above, the advisory committee is proposing four new forms to be approved as optional forms, designated as forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115. These forms are, respectively, an application for a good cause exception to notice of the hearing on a petition for appointment of a temporary conservator, initial and continuation pages of a supporting declaration, and an order on the application.

#### *Forms GC-140 and GC-141*

Also proposed are conversion of the existing dual-use mandatory order appointing a temporary guardian or conservator (form GC-140) to a temporary guardianship order and adoption of new form GC-141 as the temporary conservatorship order, paralleling the just-completed separation of the standard-format temporary guardianship and temporary conservatorship petitions (forms GC-110 and GC-111), effective July 1, 2008.

### Alternative Actions Considered

The committee's original proposal for approval of forms for the application for an exception to notice of hearing on a petition for appointment of a temporary conservator has been modified. A declaration to show the notice given of the application itself and efforts to find persons entitled to notice who could not be found, designated as form GC-113, has been withdrawn. The form was intended to satisfy the requirement of rule 7.1062(e)(3) that the application include a declaration containing the information required for an ex parte application in civil matters under rule 3.1204(b).<sup>4</sup> The principal reason that proposed form GC-113 was withdrawn is that a significant part of the information required by the form and rules 7.1062(e)(3) and 3.1204(b) must now be included in the petition for appointment of a temporary conservator.

Legislation enacted in 2007 amended Probate Code section 2250 to require petitions for appointment of temporary conservators, if filed by persons other than the proposed conservatee, to include a declaration showing efforts to locate the persons entitled to notice of the hearing on the petition or why it was "not feasible to contact any of them."<sup>5</sup> The new *Petition for Appointment of Temporary Conservator* (form GC-111), adopted by the council effective July 1, 2008, addresses the requirements of section 2250(d) in item 8b on page 3 of the form. If all named relatives have not been found or contacted, the form alleges that efforts to find them and the reasons why they cannot be contacted are described in one or more declarations attached to the petition as attachment 8b.

In response to comments received from the public about these new requirements and their confusing relationship to the very similar showing of due diligence to find persons entitled to notice required under rule 7.1062(e)(3), the advisory committee attempted to redesign proposed form GC-113 as an attachment to the petition for appointment of temporary conservator. This was part of a plan to enable a petitioner to show due diligence in efforts to find a relative entitled to notice only once, in the attachment to the petition rather than in a declaration in

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<sup>4</sup> Rule 3.1204(b) requires a declaration showing the advance notice given to other parties of the time and place the application is to be made and the relief that will be requested, efforts to give such notice if unable to do so, or reasons why notice should not be required. If notice is given, any response of the notified party must be disclosed, together with a statement of the likelihood of opposition to the application.

<sup>5</sup> See § 2250(d), added by Stats. 2007, ch. 553 (Assem. Bill 1727), § 12. Section 2250(d) refers to the conservatee's relatives named in the petition for appointment of a general conservator. These are the persons, in addition to the proposed conservatee, who must be given notice of the hearing on the petition for appointment of a temporary conservator under § 2250(e)(2). They are the proposed conservatee's spouse or registered domestic partner and second-degree relatives (grandparents, parents, children, grandchildren, and siblings), or, if none, certain "deemed relatives." (See Prob. Code, § 1821(b).)

support of the application for an exception to notice, and to have that showing satisfy the requirements of both section 2250(d) and rule 7.1062(e)(3).

In making this effort, the advisory committee examined rule 7.52, a rule of general application in all probate matters adopted in 2003 and unchanged since then. This rule requires a declaration showing steps taken to find a person entitled to notice in any probate matter who cannot be found, to support an application for an order dispensing with notice to that person. The rule lists certain search techniques that demonstrate due diligence.

The committee finally decided to withdraw proposed form GC-113 at this time. It plans instead to update rule 7.52's list of actions demonstrating due diligence to find persons entitled to notice and to develop and propose an all-purpose form declaration that could be used to show due diligence in searching for persons entitled to notice in all probate matters, including a petition for appointment of a temporary conservator under Probate Code section 2250(d) and an application for an exception to notice under rule 7.1062.

#### 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, 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 responses is attached to this report at pages 28–43. All comments generally supported the proposal, but most commentators recommended additional changes.

The Estate Planning, Trust, and Probate Section of the Bar Association of San Francisco and the Superior Court of Los Angeles County recommended that the proposed order on the application for an exception to notice, form GC-115, should not refer to a hearing. A hearing is not always required on the application for an exception to notice. The advisory committee agrees with these comments. Item 1 of form GC-115 has been revised to refer to a presentation rather than a hearing.

Judge Mary Ann Grilli of the Superior Court of Santa Clara County expressed concern that merely striking the requirement for a memorandum from rules 7.1012 and 7.1062 would not be sufficient to prevent courts from adopting local rules to require a memorandum. The advisory committee has concluded that the revised rules do not require an additional change on this issue. Comparison of the revised

rules with existing rule 3.1201(4), concerning ex parte applications in civil cases generally, which requires a memorandum, should make it clear that no memorandum may be required by a local rule for all applications under rules 7.1012 and 7.1062. The advisory committee does not intend to prevent a judicial officer or probate legal staff from requesting an applicant to provide a memorandum in a particular case.

Judge Grilli also recommended that the plain-language temporary guardianship petition (form GC-110(P)) be revised to add text advising that an emergency should exist before a temporary guardianship is requested. She also requested that the declarations in support of the application for an exception to notice of the hearing in a temporary conservatorship (forms GC-112(A-1) and (A-2)) provide basic instructions on how to complete the forms. The advisory committee decided not to change the forms in response to these comments. The committee will, however, consider developing separate instructions for the petition and for the application as a whole instead of adding advice to each of these forms. The committee is particularly concerned that extensive advice added to the declaration forms would take most of the space available for the declarant's testimony.

Ms. Tina Rasnow, senior attorney and director of the Self-Help Legal Assistance Center of the Superior Court of Ventura County, recommended that the application for an exception to notice contained in the plain-language temporary guardianship petition should be an attachment to the petition, particularly if the reason for the exception to notice is inability to find a person entitled to notice. The advisory committee believes that a separate attachment for the application for an exception to notice for the plain-language temporary guardianship petition would amount to a second package of application forms, potentially creating more confusion.

Judge Grilli and the Superior Court of Los Angeles County recommended that the application process be streamlined by requiring the information in proposed Judicial Council form GC-113 to be contained in a separate declaration to be filed with, or before the hearing on, the petition for appointment of a temporary conservator. The declaration should describe the notices actually given and the efforts to give notice to persons who were not contacted as required by Probate Code section 2250(d). The court would then consider, at the appointment hearing, whether the notice given was sufficient, and the findings and orders regarding notice would be included in the court's decision.

The advisory committee agrees with these commentators that the showing of due diligence to find a person entitled to notice of hearing of the petition required under section 2250(d) should also support an application for an exception to the duty to give notice to that person. This led to the advisory committee's attempt to

change proposed form GC-113 into an attachment to the petition for appointment of a temporary conservator and its eventual withdrawal of the form for the reasons discussed under Alternative Actions Considered.

The Superior Court of Los Angeles County made two additional recommendations. First, the court recommended the development of an optional plain-language *Petition for Appointment of Temporary Conservatorship of the Person*, similar to the plain-language *Petition for Appointment of Temporary Guardian of the Person* (form GC-110(P)). The request for a good cause exception to notice would be included in the petition. The advisory committee will consider the development of a plain-language version of the *Petition for Appointment of Temporary Conservator* (form GC-111) and will also consider whether to include an application for an exception to notice similar to the application now provided in item 9 of form GC-110(P) and to amend rule 7.1062 to permit inclusion of the application in the petition.

Second, the court suggested that item 3 of form GC-115, the order on the application for an exception to notice, should request the name of the proposed conservatee, not the name of the petitioner. The advisory committee disagrees with this comment. The name of the petitioner, not the proposed conservatee, was intended. The committee has, however, revised the item to read:

“Good cause exists for an exception to notice of the hearing of the petition of (*name*): \_\_\_\_\_ for appointment of a temporary conservator of the proposed conservatee named above. The exception is essential to protect the proposed conservatee, or his or her estate, from substantial harm.”

This change removes any doubt about whose name is intended. Requiring the name of the petitioner in item 3 is important in cases where the person applying for the exception to notice and the petitioner are not identical, such as where the proposed conservatee is the petitioner or there are co-petitioners but only one applicant, or where there are competing petitions for appointment.

The Superior Court of San Diego County recommended that the *Petition for Appointment of Temporary Guardian* (form GC-110), the standard-format version of the petition, should be amended to include the application for an exception to notice that is now included in form GC-110(P), the plain-language version. The advisory committee disagrees with this comment. Rule 7.1012 requires an application for an exception to notice to be separate from the petition for appointment of a temporary guardian so the application can focus on the emergency occurring during the five-day notice period rather than the reasons for the temporary appointment. An exception is made in the plain-language version of

the temporary guardianship petition (form GC-110(P)), intended primarily for unrepresented persons. The committee believes, however, that represented persons and others capable of using the standard-format petition should continue to keep their applications for an exception to notice and their petitions for temporary appointment separate.

#### Implementation Requirements and Costs

This proposal will result in the usual costs associated with the amendment of California Rules of Court, the revision of Judicial Council forms, and the approval or adoption of new forms. Increased responsibility of courts for hearings in connection with petitions for temporary conservatorships and temporary guardianships and applications for exceptions to notice of these hearings will increase the cost of court operations. However, these costs are mandated by legislation, not the rules and forms proposed here, which are responses to the same legislation.

Attachments



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

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

3  
4 **(a) Purpose**

5  
6 The purpose of this rule is to establish uniform standards for the good cause  
7 exception to the notice of the hearing required on a petition for appointment  
8 of a temporary guardian under Probate Code section 2250~~(e)~~(e).  
9

10 **(b) Good cause for exceptions to notice limited**

11  
12 Good cause for an exception to the notice required by section 2250~~(e)~~(e)  
13 must be based on a showing that the exception is necessary to protect the  
14 proposed ward or his or her estate from immediate and substantial harm.  
15

16 **(c) Court may waive or change the time or manner of giving notice**

17  
18 An exception to the notice requirement of section 2250~~(e)~~(e) may include  
19 one or any combination of the following:  
20

21 (1)–(3) \* \* \*

22  
23 **(d) Good cause exceptions to notice**

24  
25 Good cause for an exception to the notice requirement of section 2250~~(e)~~(e)  
26 may include a showing of:  
27

28 (1)–(5) \* \* \*

29  
30 **(e) Contents of request for good cause exception to notice**

31  
32 (1) When the temporary guardianship petition is prepared on the *Petition*  
33 *for Appointment of Temporary Guardian* (form GC-110), a request for  
34 a good cause exception to the notice requirement of section 2250~~(e)~~(e)  
35 must be in writing, separate from the petition for appointment of a  
36 temporary guardian, and must include:  
37

38 ~~(1)~~(A) An application containing the case caption and stating the  
39 relief requested;  
40

1           ~~(2)~~(B)     An affirmative factual showing in support of the application  
2                   in a declaration under penalty of perjury containing competent  
3                   testimony based on personal knowledge;  
4

5           ~~(3)~~(C)     A declaration under penalty of perjury based on personal  
6                   knowledge containing the information required for an ex parte  
7                   application under rule 3.1204(b); and  
8

9           (4)    A memorandum; and

10           ~~(5)~~(D)     A proposed order.

11  
12  
13           (2)    When the temporary guardianship petition is prepared on the *Petition*  
14                   *for Appointment of Temporary Guardian of the Person (form GC-*  
15                   *110(P))*, a request for a good cause exception to the notice requirement  
16                   of section 2250(e) may be included in the petition.  
17

18   **Rule 7.1062. The good cause exception to notice of the hearing on a petition**  
19           **for appointment of a temporary conservator**  
20

21   **(a) Purpose**  
22

23           The purpose of this rule is to establish uniform standards for the good cause  
24           exception to the notice of the hearing required on a petition for appointment  
25           of a temporary conservator under Probate Code section 2250~~(e)~~(e).

26  
27   **(b) Good cause for exceptions to notice limited**  
28

29           Good cause for an exception to the notice required by section 2250~~(e)~~(e)  
30           must be based on a showing that the exception is necessary to protect the  
31           proposed conservatee or his or her estate from immediate and substantial  
32           harm.  
33

34   **(c) \* \* \***  
35

36   **(d) Good cause exceptions to notice**  
37

38           Good cause for an exception to the notice requirement of section 2250~~(e)~~(e)  
39           may include a showing of:  
40

41           (1)–(5)     \* \* \*

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

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

6  
7 (1)–(2) \* \* \*

8  
9 (3) A declaration under penalty of perjury based on personal knowledge  
10 containing the information required for an ex parte application under  
11 rule 3.1204(b); and

12  
13 ~~(4)–A memorandum; and~~

14  
15 ~~(5)~~(4) A proposed order.



# GC-110(P)

## Petition for Appointment of Temporary Guardian of the Person

Clerk stamps date here when form is filed.

Temporary guardianship of (all children's names): \_\_\_\_\_

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

Fill in court name and street address:

Superior Court of California,  
County of \_\_\_\_\_

Clerk fills in case number when form is filed.

Case Number: \_\_\_\_\_

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

- a. \_\_\_\_\_
- b. \_\_\_\_\_

2 Your address and telephone number:

Street: \_\_\_\_\_ Apt.: \_\_\_\_\_

City: \_\_\_\_\_

State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_

3  Your lawyer (if you have one):

Name: \_\_\_\_\_ Bar No.: \_\_\_\_\_

Firm name, if any: \_\_\_\_\_

Street: \_\_\_\_\_ Suite: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax (optional): \_\_\_\_\_ E-mail (optional): \_\_\_\_\_

4  I/We want to be the temporary guardian of the child or children named in 6. (Go to 5.)

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

Name(s): \_\_\_\_\_

Street: \_\_\_\_\_ Apt.: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

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

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



Temporary guardianship of (*all children's names*): \_\_\_\_\_

Case Number:
--------------

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

- |   |  |
|---|--|
| <input type="checkbox"/> Grandmother (father's mother)  | <input type="checkbox"/> Aunt            |
| <input type="checkbox"/> Grandfather (father's father)  | <input type="checkbox"/> Uncle           |
| <input type="checkbox"/> Grandmother (mother's mother)  | <input type="checkbox"/> Brother (adult) |
| <input type="checkbox"/> Grandfather (mother's father)  | <input type="checkbox"/> Sister (adult)  |
| <input type="checkbox"/> Other Relative ( <i>explain relationship to child or children</i> ): _____ |  |

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

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

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

a. Child's full legal name: \_\_\_\_\_

Child's current address: \_\_\_\_\_

Child's current phone number: \_\_\_\_\_

b. Child's full legal name: \_\_\_\_\_

Child's current address: \_\_\_\_\_

Child's current phone number: \_\_\_\_\_

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

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

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

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

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





Temporary guardianship of (*all children's names*): \_\_\_\_\_

Case Number: \_\_\_\_\_

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

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

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

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

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

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

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

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

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

Date: \_\_\_\_\_  
*Petitioner types or prints name here* *Petitioner signs here*

Date: \_\_\_\_\_  
*Petitioner types or prints name here* *Petitioner signs here*

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  <hr/> <p style="text-align: center;">TELEPHONE NO.: <span style="margin-left: 150px;">FAX NO. (<i>Optional</i>):</span></p> <p>E-MAIL ADDRESS (<i>Optional</i>):</p> <p>ATTORNEY FOR (<i>Name</i>):</p>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY GUARDIANSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF ( <i>Name</i> ):	MINOR
<b>ORDER APPOINTING TEMPORARY GUARDIAN</b>	CASE NUMBER:

**WARNING: THIS APPOINTMENT IS NOT EFFECTIVE UNTIL LETTERS HAVE ISSUED.**

1. The petition for appointment of a temporary guardian came on for hearing as follows (*check boxes c-l to indicate personal presence*):
- a. Judicial officer (*name*):
  - b. Hearing date: Time:  Dept.:  Room:
  - c.  Petitioner (*name*):
  - d.  Attorney for petitioner (*name*):
  - e.  Minor (*name*):
  - f.  Attorney for minor (*name*):
  - g.  Minor's parents (*names*):
  - h.  Attorney for minor's parents (*names*):
  - i.  Person with valid visitation order (*name*):
  - j.  Attorney for person with valid visitation order (*name*):
  - k.  Public Guardian (*name*):
  - l.  Attorney for Public Guardian (*name*):

**THE COURT FINDS**

2. a.  Notice of the time and place of hearing has been given as required by law.  
 b.  Notice of the time and place of hearing  has been  should be dispensed with for (*names*):
3. It is necessary that a temporary guardian be appointed to  provide for temporary care, maintenance, and support  
 protect property from loss or injury  pending the hearing on the petition for appointment of a general guardian.  
 pending an appeal under Probate Code section 1301.  during the suspension of powers of the guardian.

**THE COURT ORDERS**

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

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

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

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i>  <hr style="width: 20px; margin-left: 0;"/>  TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF _____ <i>(Name):</i>	
<b>EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR of the</b> <input type="checkbox"/> Person <input type="checkbox"/> Estate	CASE NUMBER: _____
<b>Note to Applicant: Please review the instructions in item 6 on page 3 and at the bottom of that page for completing this form and supporting documents.</b>	

1. Applicant *(name)*: \_\_\_\_\_ is

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

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

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

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

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

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

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

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

TEMPORARY CONSERVATORSHIP OF (Name):   CONSERVATEE	CASE NUMBER:
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3.  Instead of an exception to giving notice to the persons named in item 3c, Applicant requests that *(check all that apply)*:
- a.  The time period of notice to the person or persons named in item 3c be changed as follows *(specify number of days of notice or number of hours if less than one day)*:

- b.  The method of giving notice to the person or persons named in item 3c be changed as follows *(specify method of service; for example, personal delivery, fax, or e-mail)*:

- c. The person or persons, and his, her, or their relationship to the proposed conservatee are as follows *(specify)*:

Name

Relationship to proposed conservatee

Additional persons and relationships are listed on attachment 3c.

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

Name

Relationship to proposed conservatee

Additional persons and relationships are listed on attachment 4.

5.  An exception to giving notice to the person or persons named below should be made because Applicant cannot find him, her, or them, despite the exercise of due diligence to search for him, her, or them *(state names and relationships to the proposed conservatee of all persons who could not be found)*:

Name

Relationship to proposed conservatee

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

TEMPORARY CONSERVATORSHIP OF (Name):   CONSERVATEE	CASE NUMBER:
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6. The following documents are presented with this application in support:

- a. Applicant's *Petition for Appointment of Temporary Conservator* (form GC-111);
- b. Supporting declaration of (name):
- c.  Supporting declaration of (name):
- d.  Supporting declaration of (name):
- e.  Supporting declaration of (name):

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

- f. Declaration regarding notice of ex parte application of (name):  
*(This declaration is required with this application. See rules 3.1204(b) and 7.1062(e)(3).*
- g.  Other (describe):

- h. Proposed order. *(A proposed order must be submitted with this application. You may use the Order on Ex Parte Application For Good Cause Exception to Notice of Hearing on Petition For Appointment of Temporary Conservator (form GC-115) for the order.)*

Date:



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

(SIGNATURE OF APPLICANT OR ATTORNEY FOR APPLICANT)

## INSTRUCTIONS

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

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

### 2. Good cause exception to notice

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



TEMPORARY CONSERVATORSHIP OF (Name):  CONSERVATEE	CASE NUMBER:
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**DECLARATION IN SUPPORT OF EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR \***

I (name): \_\_\_\_\_ declare as follows:

1.  (This box must be checked unless the declarant is an expert witness.) I have personal knowledge of the facts stated in this declaration and could and would testify competently to those facts.
2.  I am an expert witness. My qualifications are stated below.
3. (Continue declaration here, number each paragraph consecutively on this page and on all continuation pages.)

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

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

Date:

\_\_\_\_\_  \_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

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



TEMPORARY CONSERVATORSHIP OF (Name):   CONSERVATEE	CASE NUMBER:
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**DECLARATION CONTINUATION PAGE \***

I (name): \_\_\_\_\_ declare as follows:

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

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

Date:

\_\_\_\_\_  \_\_\_\_\_  
 (TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

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



ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):  <hr/> <p style="text-align: center;">TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____</p> <p>E-MAIL ADDRESS (<i>Optional</i>): _____</p> <p>ATTORNEY FOR (<i>Name</i>): _____</p>	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
TEMPORARY CONSERVATORSHIP OF ( <i>Name</i> ): _____  <div style="text-align: right;">CONSERVATEE</div>	
<b>ORDER ON EX PARTE APPLICATION FOR GOOD CAUSE EXCEPTION TO NOTICE OF HEARING ON PETITION FOR APPOINTMENT OF TEMPORARY CONSERVATOR of the</b> <input type="checkbox"/> <b>Person</b> <input type="checkbox"/> <b>Estate</b>	CASE NUMBER: _____

1. The ex parte application for good cause exception to notice of hearing on the petition for appointment of temporary conservator was presented as follows (*check boxes c-j to indicate personal presence*):

- a. Judicial officer (*name*): \_\_\_\_\_
- b. Date presented: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Room: \_\_\_\_\_
- c.  Applicant (*name*): \_\_\_\_\_
- d.  Attorney for applicant (*name*): \_\_\_\_\_
- e.  Proposed conservatee (*name*): \_\_\_\_\_
- f.  Attorney for proposed conservatee (*name*): \_\_\_\_\_
- g.  Proposed conservatee's spouse or registered domestic partner and relatives (*names and relationships*): \_\_\_\_\_
  
- h.  Attorney for persons listed in item g (*name or names of all attorneys and persons represented*): \_\_\_\_\_
  
- i.  Public Guardian (*name*): \_\_\_\_\_
- j.  Attorney for Public Guardian (*name*): \_\_\_\_\_

**THE COURT FINDS**

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

TEMPORARY CONSERVATORSHIP OF (Name): _____ <div style="text-align: right; margin-top: 10px;">CONSERVATEE</div>	CASE NUMBER: _____
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4.    b.  An immediate and substantial financial emergency. Means other than an exception to notice of the hearing on the appointment of a temporary conservator are likely to be ineffective to prevent loss or further loss to the proposed conservatee's estate during the notice period.
- c.  An immediate emergency that is likely to cause substantial harm to the proposed conservatee during the notice period.

5.  The period of notice or the manner of giving notice to the persons named below should be modified as follows (*specify names, period of notice, and manner of giving notice*):

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

6.  Notice should be dispensed with to the persons named below because of the harm he, she, or they, or another person, might do to the proposed conservatee, or his or her estate, if notice is given to the persons (*specify names*):

7.  Notice should be dispensed with to the persons named below because applicant cannot find him, her, or them despite the exercise of due diligence (*specify names*):

**THE COURT ORDERS**

8.  Notice of the application for an exception to notice of hearing on the petition for appointment of a temporary conservator is
- a.  dispensed with.
- b.  dispensed with for the following named persons only:

9.  Notice of the hearing on the petition of (*name*):
- for appointment of a temporary conservator is
- a.  dispensed with.
- b.  dispensed with for the following named persons only:

   c.  modified as follows for the following named person(s):

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

10.  Other orders as specified on Attachment 10 are made.

11. Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER  
 SIGNATURE FOLLOWS LAST ATTACHMENT

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

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

- a. Judicial officer *(name):*
- b. Hearing date: \_\_\_\_\_ Time: \_\_\_\_\_  Dept.: \_\_\_\_\_  Room: \_\_\_\_\_
- c.  Petitioner *(name):*
- d.  Attorney for petitioner *(name):*
- e.  Conservatee *(name):*
- f.  Attorney for conservatee *(name):*
- g.  Conservatee's spouse or registered domestic partner, and relatives *(names and relationships):*

h.  Attorneys for persons listed in item g *(names and persons represented):*

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

**THE COURT FINDS**

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

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

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

**THE COURT ORDERS**

7. a.  (Name): \_\_\_\_\_ (Telephone): \_\_\_\_\_  
 (Address): \_\_\_\_\_

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

b.  (Name): \_\_\_\_\_ (Telephone): \_\_\_\_\_  
 (Address): \_\_\_\_\_

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

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

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

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

13.  Other orders as specified in attachment 13 are granted.
14.  Unless modified by further order of the court, this order expires on (date): \_\_\_\_\_
15. Number of boxes checked in items 7–14: \_\_\_\_\_
16. Number of pages attached: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
 JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

**SPR08-45****Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
1.	Elder Law & Advocacy Mr. Louis Kelly, Attorney San Diego	A	<p>Agree with proposed changes.</p> <p>I am an attorney at Elder Law &amp; Advocacy, a private non-profit organization of attorneys who supply free legal services to seniors 60 years and older. Carolyn Reilly, our Executive Director, asked me to reply to this Requests for Comment on behalf of the organization.</p> <p>I manage the Caregiver Program in which we do document preparation for Conservator to petition for a Conservatorship. That is why we are only commenting on SPR08-45. The only section of the California Rules of Court which are of note to us is 7.1062.</p> <p>I believe it is a good idea to have court waiver of notice of the hearing on the petition for appointment of temporary conservator because of the number of dysfunctional families whom we see in this program. Sometimes, the good child is trying to protect the parent from physical or emotional or financial harm. Giving notice to the bad child can put the parent into a difficult or even dangerous situation.</p>	<p>No change in the proposal appears necessary or appropriate in response to this comment, as it is not addressed to the changes proposed for rule 7.1062. The court will continue to have discretion under the revised rule to waive notice of an application for appointment of a temporary conservator to any person the court considers likely to cause harm to the proposed conservatee.</p>

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

**SPR08-45**

**Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
			I think a good cause exception should be given to the court when service to one or more relatives would or could create a bad situation for the Conservatee.	
2.	Estate Planning, Trust, and Probate Section Bar Association of San Francisco Ms. Barbara Fanning, Director, CLE San Francisco	AM	<p>We believe that in many cases, an ex parte application for good cause exception to notice of hearing on petition for appointment of temporary conservator will be heard at the same time as the actual ex parte petition for appointment of temporary conservator. For example, in a true medical or financial emergency, there will simply not be time to notice and appear on two separate and sequential hearings. We are also aware that, at least in San Francisco, unlike many other ex parte matters, an appearance is mandatory on any ex parte petition to shorten time.</p> <p>We can imagine situations, however, in which time may not be of the essence, and to require a hearing on the ex parte application for good cause exception to notice may be wasteful. For example, the location of a noticeable party may be unknown, and a due diligence search may prove fruitless. Is a hearing necessary in such circumstances? If the notice of the ex parte application for good cause exception to notice is sent to the other noticeable parties, and they</p>	<p>The advisory committee agrees that in many cases the successful application for a good cause exception to notice will in fact be considered at the same time as the underlying petition for appointment of a temporary conservator.</p> <p>See the advisory committee’s response to the comments of the Superior Court of Los Angeles County and Judge Mary Ann Grilli below, concerning modification of withdrawn form GC-113 to permit its use as a “due diligence” declaration to be filed with the petition for appointment of temporary conservator and served on the other noticed parties. The court and the remaining parties should become aware at the earliest opportunity that there is a problem with</p>

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

**SPR08-45**

**Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
			<p>have information about the location of the missing person, they can inform the petitioner. If they do not, it seems the ex parte application could simply be submitted to the Court for review and approval, like many other ex parte matters. We note that although rule 7.1062 of the California Rules of Court mandates the contents of a request for good cause exception to notice, it does not require a hearing on such a request. The Court of each county may wish to create their own guidelines regarding which ex parte applications for good cause exception to notice must be heard and which may be submitted for review without hearing, depending on the resources available. And, of course, a court may always decide that a matter submitted for ex parte consideration without hearing does, in fact, require a hearing.</p> <p>The proposed order as currently drafted only allows for the order to issue after hearing. We suggest that the order be revised to allow for it to issue following submission of the ex parte application for good cause exception to notice upon a showing of good cause but without hearing.</p> <p>Thank you for including us in this interesting process.</p>	<p>notification of all persons entitled to notice of the application.</p> <p>The advisory committee agrees with this comment and has revised item 1 of form GC-115, the order on the application, to refer to a presentation rather than a hearing. See comment 4b of the Superior Court of Los Angeles County and the advisory committee’s response below.</p>

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

**SPR08-45****Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
3.	Hon. Mary Ann Grilli Judge of the Superior Court of Santa Clara County San Jose	AM	<p>The proposal to modify the rule to eliminate the requirement for points and authorities under this section is an excellent idea.</p> <p>I would suggest that this not simply be the case for the simplified form, but in all petitions under this section.</p> <p>I do not believe that simply striking the word “memorandum” will be clear enough. My suggestion would be a clear statement that says that a memorandum of points and authorities is not required under this section absent a specific request from a judicial officer. That should avoid the potential of a local rule requiring points and authorities with literally every petition.</p> <p>The plain language guardianship form is excellent and I hope that other forms are modified to this format as well.</p> <p>I would suggest that some language about the requirement for an emergency be on the first page of the form, however. There are many applications for temporary guardianships where</p>	<p>The proposed revisions of rules 7.1012 and 7.1062 would eliminate the requirement of a memorandum in all cases, including temporary guardianships in which the standard-style petition is filed and all temporary conservatorships.</p> <p>Comparing revised rules 7.1012(e) and 7.1062(e) with existing rule 3.1201(4), concerning ex parte applications in civil cases generally, should make it clear that no memorandum may be imposed by local rules for ex parte temporary guardianship or conservatorship applications.</p> <p>The advisory committee will consider this recommendation, or perhaps a separate instruction form for temporary guardianships.</p>

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**SPR08-45**

**Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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			<p>there is no real emergency.</p> <p>The ex parte application for good cause [form GC-112] seems very complicated. I would also suggest that number 5 on page 2 of the form reference the efforts to locate the person. This is very important for the judicial officer to know.</p> <p>The declaration attachment [form GC-112(A-1 and A-2) should really have some basic instructions as to what goes on the form. With the increase in self-represented parties, the more explanation that can be given the better.</p>	<p>See the comments of the Superior Court of Los Angeles County and the advisory committee’s response below. That response refers to a withdrawn form, designated as form GC-113, a declaration in support of the ex parte application showing due diligence in efforts to locate a person entitled to notice who could not be found. This information must now be submitted with the temporary conservatorship petition in all cases under revised Probate Code section 2250(d). (See item 8 in the temporary conservatorship petition, form GC-111, a new form adopted effective July 1, 2008.) Once the due diligence declaration concerning efforts to find a person who could not be found is submitted as part of the temporary conservatorship petition, it should not be necessary to resubmit the declaration again as part of the application for an exception to notice based on the inability to find the same person.</p> <p>The advisory committee disagrees with this comment. The instructions would likely take most of the entire space of the declaration form. The advisory committee will consider proposing a separate instruction sheet for the application as a whole if the application process is unclear.</p>

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**SPR08-45****Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

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4.	Ms. Patricia Lewin Superior Court of Sonoma County Civil Division Santa Rosa	A	Agree with proposed changes.	No response necessary.
5.	Orange County Bar Association Ms. Cathrine Castaldi, President Irvine	A	Agree with proposed changes.	No response necessary.
6.	Ms. Tina Rasnow Senior Attorney/Coordinator Superior Court of Ventura County Self-Help Legal Assistance Center Ventura	AM	Agree with proposed changes.  The temporary guardianship petition form is much improved with respect to self-represented litigants, but I think having the request for waiver of notice be in the form of an attachment as opposed to being incorporated within the form may make the form easier for folks to navigate where notice is not a problem. In other words, the instructions on to whom notice must be given is good to have in the form, and then folks could check a box if they are unable to give notice and they would be referred to an attachment which would have all the information they would need to provide as to why notice cannot or should not be given.	The advisory committee disagrees with this comment. The committee believes that a separate attachment for the application for an exception to notice for the plain-language temporary guardianship petition would amount to a second package of application forms, potentially creating more confusion. Moreover, information about efforts to find persons who will not be given notice because they cannot be found will be presented in one or more declarations attached to the petition, as now required by amended Probate Code section 2250(d). See the committee's responses to the comments of Judge Mary Ann Grilli above and the Superior Court of Los Angeles County, below.

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**SPR08-45**

**Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

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			<p>I agree that having separate forms for guardianship and conservatorship make a lot of sense. I also agree that the self-represented-litigant-friendly forms are generally needed for guardianship of the person only, and where an estate is involved, so should be an attorney.</p> <p>Regarding conservatorships, we are seeing more and more of them in the SHLA Centers, either for the person only, or where the estate is so small no attorney wants to handle it. It would be great to get the conservatorship forms into self-represented-litigant-friendly format like the guardianship forms.</p>	<p>The advisory committee will consider the creation of a plain-language temporary conservatorship petition and instructions.</p>
7.	<p>Staff Counsel Services and Self-Help Division Ms. Debra Meyers, Director Superior Court of San Bernardino County San Bernardino</p>	AM	<p>Agree with proposed changes if modified.</p> <p>The better solution would be one form for guardianship orders with appropriate boxes to check as to whether the orders are for person, estate, or person and estate. Petitioners, particularly those who are self-represented, are often confused by multiple forms, which results in more continuances and increased use of judicial resources. We do, however, agree with the use of separate orders for guardianships and</p>	<p>The proposed temporary guardianship appointment order, revised form GC-140, does have check boxes to indicate appointment of a temporary guardian of the person, the estate, or both. With these revisions, there will be no more combined form orders for appointment of guardians and conservators, general or temporary. See revised form GC-140 and new form GC-141 (both part of this proposal), and</p>

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			conservatorships.	existing forms GC-240 and GC-340.
8.	Superior Court of Los Angeles County Los Angeles	A, AM, N	<p>1. Rules 7.1012(e) and 7.1062(e) Agree with proposed changes.</p> <p>2. Form GC-110(P) <i>Petition for Appointment of Temporary Guardian of the Person</i> Agree with Proposed Changes If Modified.</p> <p>Paragraph 9b. States “give notice of this application...” it should state “give notice of this petition” as the pleading is entitled “Petition for Appointment of Temporary Guardian of the Person.”</p> <p>3. Forms GC-112, GC-112(A-1), GC-112(A-2), GC-113 and GC-115 Do not agree with proposed changes:</p> <p>Rule 7.1062(e) sets forth a required procedure for obtaining a good cause exception to the notice requirement of Probate Code section 2250(e). Proposed Judicial Council forms GC-112, GC-112(A-1), GC-112(A-2), GC-113 and GC-115 appear to facilitate that procedure. However, the proposed forms state that their use is optional. It is unclear why the forms would be optional when the procedure is mandatory.</p>	<p>1. No response necessary.</p> <p>2. The advisory committee agrees with this comment. It has revised paragraph 9b to say: “give notice of the hearing on this petition for appointment of temporary guardian to . . .”</p> <p>3.</p> <p>The forms were made optional to permit counsel for fiduciaries to draft their own ex parte applications and proposed orders. The requirements for all applications would remain as required by the amended rules of court.</p>

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(amend Cal. Rules of Court, rules 7.1012 and 7.1062; revise forms GC-110(P) and GC-140; approve forms GC-112, GC-112(A-1), GC-112(A-2), and GC-115; and adopt form GC-141)

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			<p>The process should be streamlined, requiring the information in proposed Forms GC-112, GC-112(A-1) and GC-112(A-2), in a separate declaration to be filed with (or prior to the hearing on) the Petition for Appointment of Temporary Conservator, [recognizing this will require a change to the language in CRC, Title 7 Rule 7.1062(e)]. The declaration would describe the notices actually given and the efforts to notice to persons who were not contacted as required by Probate Code section 2250(c). The Court would then consider, at the hearing, whether the notice given was sufficient and the findings and orders regarding notice would be included in the court’s decision.</p>	<p>The advisory committee partially agrees with this comment. The information required by amended Probate Code section 2250(d) concerning due diligence to find and contact the persons named in the Petition for Appointment of Probate Conservator (form GC-310) now must be contained in the <i>Petition for Appointment of Temporary Conservator</i> (new form GC-111), whether or not there is an application for waiver of notice of the hearing on the petition. The new temporary conservatorship petition was adopted by the Judicial Council effective July 1, 2008. Item 8 on page 3 of the new form contains the information concerning advance notice required by section 2250(d). The paragraph calls for the efforts to contact to be disclosed in one or more declarations attached to the petition.</p> <p>The committee has withdrawn proposed new form GC-113, a declaration in support of the ex parte application for an exception to notice showing efforts to find persons entitled to notice who cannot be found. It plans instead to create a general form declaration of due diligence in efforts to find persons entitled to notice under all provisions of the Probate Code and rules 7.52</p>

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**Probate—Guardianships and Conservatorships: Appointment of Temporary Guardians and Temporary Conservators**

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			<p>It appears to the court that litigants would benefit from an optional plain-language <i>Petition for Appointment of Temporary Conservatorship of the Person</i>, similar to the plain-language <i>Petition for Appointment of Temporary Guardian of the Person</i> (form GC-110(P)). The request for a good cause exception to notice would be included in the petition. The procedures for obtaining an ex parte order dispensing with or changing the manner or time of notice using the proposed Judicial Council forms GC-112, GC-112(A-1), GC-112(A-2), GC-113 and GC-115 will be difficult for pro per users to understand. Many temporary conservatorships of the person are filed by pro per filers. Often these filers include non-English speaking and unsophisticated family members.</p> <p>It should be mentioned that the ex parte procedure to obtain an exception to the notice provisions of Probate Code section 2250(e) requires yet another appearance by counsel, or the pro per petitioner, to obtain an order dispensing with notice, shortening the time for</p>	<p>and 7.1062, including Probate Code section 2250(e). Once that showing is made as part of the petition, the advisory committee agrees that additional declarations showing due diligence to find the same persons should be unnecessary.</p> <p>The advisory committee will consider development of a plain-language version of form GC-111. If it is developed, the committee will also consider including the self-contained application for waiver of notice provided in the proposed revised form GC-110(P).</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
			<p>notice or prescribing a different manner of notice. In addition, a \$40.00 fee is required when submitting form GC-112. The conservatorship estates will bear the cost of preparing the Application, Order and related pleadings and the cost of counsel's appearance to present the application. The already overburdened Courts will be required to review and consider yet another petition, supporting declaration(s) and proposed order in every case where the appointment of a temporary conservator is sought.</p> <p>Because petitions for appointment of temporary conservators are generally calendared on short settings, allowing just enough time to give the required 5 days notice, the parties are often scrambling to locate all persons entitled to notice and identifying the most effective mean of giving actual notice. In those cases where a temporary conservatorship is needed, having to complete not less than eight additional pages of JC forms and arranging for presentation of the ex parte application may cause unnecessary delays.</p> <p>Most courts are reporting fewer temporary conservatorship filings following the enactment of the Omnibus Reform Act. Our court's recent</p>	

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Advisory Committee Response</b>
			<p>experiences show the majority of requests to appoint temporary conservators are justified. Well-intended families in dire need of temporary conservatorships should not be burdened with delays and another costly procedure.</p> <p>The already overburdened courts will be required to review and consider yet another petition, supporting declaration(s) and proposed order in every case where the appointment of a temporary conservator is sought.</p> <p>4. If procedure for use of forms GC-112, GC-112(A-1), GC-112(A-2), GC-113 and GC-115 is adopted:</p> <p>    a. Form GC-113 - the language at the bottom of page 1 * is confusing. It would be clearer if it read “You may use this form to show notice given, or reasons why notice could not be given of an “Ex Parte Application for Good Cause Exception to Notice of Hearing on a Petition for Appointment of a Temporary Conservator” (form GC-112). See the instructions on page 3 of that form and rule 7.1062 of the California Rules of Court. Do not use this form for a declaration in support of that application. You may use form GC-112(A-1)</p>	<p>    a. Proposed form GC-113 has been withdrawn at this time.</p>

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			<p>for that purpose.”</p> <p>b. Form GC-115 “Order on Ex parte Application for Good Cause Exception To Notice of Hearing on Petition for Appointment of Temporary Conservator of the Person/Estate. Paragraph 1 should state “was presented on” rather than “came for hearing on.” Paragraph b should state “Presented on date.” It is not necessary to indicate appearances, as ex parte applications are considered based upon the pleadings only without a hearing.</p> <p>Item 3 should reference “name of the proposed conservatee” and not the “name of petitioner.”</p>	<p>b. The advisory committee agrees with this comment and has made the proposed change.</p> <p>The advisory committee has revised paragraph 3 of form GC-115 to read:</p> <p>“Good cause exists for an exception to notice of the hearing of the petition of (<i>name</i>): _____ for appointment of a temporary conservator of the proposed conservatee named above. The exception is essential to protect the proposed conservatee, or his or her estate, from substantial harm.”</p> <p>This language would remove any doubt about whose name must be given. Requiring the name</p>

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			<p>6. GC-140 Order Appointing Temporary Guardian Agree with new form.</p> <p>7. GC-141 Order Appointing Temporary Conservator Agree with new form providing GC-112, GC-112(A-1), GC-112(A-2), GC-113, and GC-115 are adopted.</p>	<p>of the temporary conservatorship petitioner may be important in cases where the applicant and the petitioner are not identical (such as when the proposed conservatee is the petitioner or there are co-petitioners but only one applicant), or where there are competing petitions for appointment.</p> <p>6. No response necessary.</p> <p>7. No response necessary.</p>
9.	Superior Court of Sacramento County Mr. Ed Pollard Chief Deputy Executive Officer Sacramento	A	We agree with this proposal as written.	No response necessary.
10	Superior Court of San Diego County Mr. Michael M. Roddy, Executive Officer San Diego	AM	The <i>Petition for Appointment of Temporary Guardian</i> (form GC-110) (the non-simplified petition) should be amended to include the notice requirements that are now included in	The advisory committee disagrees with this comment. Rule 7.1012, based on a recommendation of the Probate Conservatorship Task Force, requires an application for an

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			form GC-110(P), the plain-language version. It would also be beneficial for language regarding notice requirements to be included in Petitions for General Guardianship. Most hearings are continued for notice issues.	exception to notice separate from the petition for appointment of a temporary guardian so that the application can be focused on the emergency occurring during the five-day notice period rather than the reasons for the temporary appointment. An exception is made in the plain-language version of the temporary guardianship petition (form GC-110(P)), intended primarily for unrepresented persons. The advisory committee believes, however, that represented persons should keep their applications for an exception to notice and their petitions for appointment of temporary guardians and conservators separate.
11	Trusts and Estates Section State Bar of California Sacramento	AM	Agree with proposed changes if modified.  Form GC-112 Italicized comment under 2(b) “A Financial Emergency” should comport with California Rules of Court 7.1062(d)(4).  <b>DISCLAIMER</b> This position is only that of the TRUSTS & ESTATES SECTION of the State Bar of California. This position has not been adopted by either the State Bar’s Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California.	The instructions in item 2b of form GC-112 conform to the provisions of rule 7.1062(d)(4). The committee does not support this recommendation.

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