

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

455 Golden Gate Avenue
San Francisco, California 94102-3688

Report Summary

TO: Members of the Judicial Council

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

DATE: September 15, 2005

SUBJECT: Probate Forms: *Petition for Appointment of Probate Conservator*
and *Order Appointing Probate Conservator* (revise forms GC-310
and GC-340) (Action Required)

Issue Statement

The current Judicial Council petition and order forms for the appointment of a probate conservator make no provision for the appointment of a successor conservator, and there are no separate forms for this purpose. Other changes in the forms are necessary to conform them to recent changes in the law or are appropriate to make the forms easier to understand and complete.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise the *Petition for Appointment of Probate Conservator* (form GC-310) and the *Order Appointing Probate Conservator* (form GC-340) to provide for the appointment of a successor conservator, conform them to the latest requirements of the law, and make them easier to understand and complete.

Attached are copies of:

1. Revised *Petition for Appointment of Probate Conservator* (form GC-310) at pages 12–17;

2. Revised *Order Appointing Probate Conservator* (form GC-340) at pages 18–20; and
3. Existing forms GC-310 and GC-340 at pages 21–28.

Rationale for Recommendation

The petition and order forms would be revised to enable them to be used to request and order the appointment of an initial or a successor conservator without the need for extensive interlineations, supplements, or other modifications by attorneys or parties using the forms. The revised forms include additional changes intended to improve their appearance, clarity, and ease of use by practitioners and courts; to eliminate unnecessary duplication; and to provide additional allegations concerning domestic partners (form GC-340), nonprofit corporations as conservators (both forms), and conservators required to register as private professional conservators with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the California Department of Justice under Probate Code section 2850 et seq. (both forms).

Alternative Actions Considered

The advisory committee initially considered proposing the adoption of separate forms for the appointment of a successor conservator. This alternative was rejected because the existing petition and order required revisions in any event and because the advisory committee believes that the number of successor conservator appointments is likely not great enough to require or support separate forms.

Comments From Interested Persons

This proposal was circulated to a standard list of court executives, judicial officers, and organizations, and also to an augmented list of probate practitioners, probate department staff, and probate-related legal organizations, including the State Bar Trusts and Estates Section and probate-interest sections of many local or regional bar associations. Attached at pages 29–35 is a chart showing the comments received and the advisory committee’s responses.

Eight comments were received, all favorable. Seven commentators made no recommendations for additional changes. One commentator, the Superior Court, Los Angeles County, requested several changes in the petition and one additional revision in the order. The advisory committee supports three of the court’s suggestions for changes in the petition and has modified this form to accommodate these recommendations. The principal changes made in response to the court’s comments would permit a petition for the appointment of a successor conservator to identify orders granting a prior conservator exclusive authority to consent to medical treatment under Probate Code section 1880 et seq. or dementia powers under section 2356.5 as the basis for a request for a new order granting these powers to the successor conservator.

Implementation Requirements and Costs

This proposal should cause only those costs associated with the revision and distribution of any Judicial Council form.

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Rationale for Recommendation

The petition and order would be revised to enable them to be used to request and order the appointment of an initial or a successor conservator without the need for extensive interlineations, supplements, or other modifications by attorneys or parties using the forms. The revised forms would include additional changes intended to improve their appearance, clarity, and ease of use by practitioners and courts; to eliminate unnecessary duplication; and to provide additional allegations concerning domestic partners (form GC-340), nonprofit corporations as conservators (both forms), and conservators required to register as private professional conservators with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the California Department of Justice under Probate Code section 2850 et seq. (both forms).

Appointment of a successor conservator

The revised petition (form GC-310) and order (form GC-340) would include optional check boxes in the title captions and throughout the text, to be checked when the appointment of a successor conservator is requested or ordered. See, for example, items 1a, 1b, and 1c on page 1, and item 3c on page 2, of the revised petition; and items 1 and 6 on page 1, and items 15 and 16 on page 2, of the revised order. References to the “proposed conservatee” would be changed throughout both forms to the “conservatee” or the “(proposed) conservatee,” according to whether the references are to successor appointments only or to both initial and successor appointments.

More important changes in the forms are based on differences between the initial appointment of a conservator and the appointment of a successor and statutory requirements for the latter under Probate Code section 2680 et seq. These differences include:

1. The jurisdictional facts alleged in item 3a of the existing petition are unnecessary in a petition for appointment of a successor conservator because those facts were established on the initial appointment of a conservator and the original proceeding continues when a successor conservator is to be appointed. The revised petition would include an instruction for this item that limits it to petitions for initial appointment only, and a check box to indicate when the item is or is not applicable.
2. The conservatee need not be cited to appear for the hearing on a petition for appointment of a successor conservator and may decline to attend the hearing for any reason or for no reason. (Prob. Code, §§ 2683, 2686.)

The revised order would refer to the conservatee as a “citee” only in items or statements within items that apply to the initial appointment of a conservator (see items 1e and 1f on page 1). Separate items or statements identifying the conservatee rather than the “citee” would be provided where references are to the appointment of a successor conservator. (See items 1e, 1f, and 1g on page 1 of revised form GC-340.)

The revised petition contains allegations concerning the (proposed) conservatee’s attendance at the hearing in item 8 on page 5. Items 8b–8d, containing allegations addressing the mandatory attendance of a proposed conservatee unless excused, would be preceded by instructions limiting their use to initial appointment hearings.

A new item 8e would be added applicable to successor appointments only, stating that the conservatee will or will not attend the hearing. This is a

- required allegation in a petition for appointment of a successor conservator (Prob. Code, § 2682(f)). The allegation is important for successor conservator appointment hearings because it informs the court whether the court investigator will be required to interview the conservatee before the hearing. (Prob. Code, § 2684.)
3. The other required allegations for a petition for appointment of a successor conservator under Probate Code section 2682 are located in the following indicated items in the revised form GC-310:
 - a. Request for appointment of a successor conservator and the name and address of the proposed successor (Prob. Code, § 2682(a)), item 1 page 1;
 - b. The names and addresses of the spouse or domestic partner, and the second-degree relatives of the conservatee (Prob. Code, § 2682(b)), item 11, page 6;
 - c. Whether the petitioner is a creditor or debtor of the conservatee (Prob. Code, § 2682(c)), item 3b, page 2;
 - d. A conservatee's status as a patient of a state institution under the jurisdiction of the state Department of Mental Health or the state Department of Developmental Services, and the name of the treating institution (Prob. Code, § 2682(d)), item 4a, page 3; and
 - e. Whether or not the conservatee is receiving or entitled to receive benefits from the federal Department of Veterans Affairs (VA), and the estimated monthly benefit payable by the VA for the conservatee (Prob. Code, § 2682(e)), item 4b, page 3.
 4. Other proposed changes in the petition necessary or appropriate for its use as a petition for appointment of a successor conservator are as follows:
 - a. A new item 5b on page 3 would request the petitioner to state the reasons why appointment of a successor conservator is necessary. This item would also advise that the appointment of a limited conservator after the death of a predecessor is a petition for the initial appointment of a conservator, not the appointment of a successor. (Probate Code section 1860.5(a)(1) provides that a limited conservatorship terminates upon the death of the limited conservator.)
 - b. The instructions for item 5e on page 5 (item 5d in the current petition) would be revised to advise that the *Confidential Supplemental Information* statement (form GC-312) is to be filed only for the initial appointment of a conservator. This form discloses facts showing that

a proposed conservatee needs a conservator. It is unnecessary for the appointment of a successor conservator.

- c. A new item 3e(1) on page 3 would permit a petitioner for appointment of a successor conservator to estimate the value of the real and personal property of the conservatorship estate by reporting its appraised value in the hands of his or her predecessor. This item is taken from a recommendation in the Continuing Education of the Bar's publication on conservatorships, which shows a current petition form modified to substitute the previously appraised value of these assets for the petitioner's estimated value.¹ The revised form would permit the use of these values where the entire estate had been appraised during the predecessor's administration, but would also provide space for the estimated values of real and personal property where it has not, such as when the change of administration takes place before the predecessor has filed a complete inventory of the estate.

Other proposed changes

The following additional changes in the petition or order forms, as indicated, are proposed:

1. Items would be added to the list of proposed conservators in item 3c on page 2 of the petition to include in the list (1) a bank or trust company—now named in the list of petitioners in item 3d but not included in the list of proposed conservators; (2) a nonprofit corporation authorized to be appointed as a conservator under Probate Code section 2104; and (3) a person who has registered with the Statewide Registry of Private Conservators, Guardians, and Trustees under Probate Code section 2850 et seq. or is exempt from registration;
2. The proposed conservator or successor conservator would be added to the list of petitioners under item 3d on page 3 of the petition, replacing current item 3d(8), a private professional conservator under Probate Code section 2342. Private professionals who petition for appointment would make the statement of their status required by section 2342(b) by checking item 3c(7) (item 3c(5) in the current form);

¹ 2 Johnstone and House, California Conservatorships and Guardianships (Cont.Ed.Bar 2003), Conservatorship Termination §20.22, p. 1264.

3. Item 9 on page 5 of the current petition, concerning independent powers under Probate Code section 2590, would be eliminated as redundant and its contents folded into item 1d on page 1;²
4. Instructions for items 1h and 1i on page 2 of the current petition, concerning limited conservatorships, would be modified to remind petitioners also to complete item 1j, concerning orders limiting the civil and legal rights of limited conservatees. Asterisks would also be added to these items connected to a reference to item 5b at the bottom of the page, to emphasize the reminder at that location that the appointment of a new conservator following the death of a limited conservator is the initial appointment of a conservator, not the appointment of a successor;
5. Item 1k on page 2 of the petition, concerning orders relating to dementia under Probate Code section 2356.5, would be modified to refer to Judicial Council forms GC-335 and GC-335A, declarations that must be filed to support dementia powers, and identify the medical professionals authorized to sign these declarations;
6. Items 8c and 10b of the current petition, concerning the mental capacity of the proposed conservatee to consent to medical treatment, would be revised (as items 8c and 9b on page 5 of the revised petition) to refer to Judicial Council form GC-335, the declaration that must be filed to support the relief requested in those items, and identify the persons authorized to sign the declaration;
7. A new item 12 would be added to page 6 of the petition, alleging that the *Confidential Conservator Screening Form* (form GC-314) is submitted with the petition, as required by rule 7.1050(a) of the California Rules of Court. This item has a check box and an instruction because banks and trust companies are exempt from this requirement;
8. Allegations in the petition supporting the appointment of a conservator would be centralized on only one page devoted entirely to those allegations, item 5c on page 4. The space available for these allegations should be sufficient in most cases without resort to attachments. These allegations are not detailed factual statements. The *Confidential Supplemental Information* statement (form GC-312), a declaration that must be filed by most petitioners, provides the detailed factual statements about the conservatee that support shorter, more general allegations in the petition;

² See the discussion concerning item 1d in 1 Johnstone and House, *California Conservatorships and Guardianships* (Cont.Ed.Bar. 2003), Starting Conservatorship Proceedings § 6.20, at p. 299.

9. Space available for the list of the conservatee's spouse, domestic partner, and relatives in item 11 on page 6 of the revised petition (item 12 of the current petition) would be expanded from two to seven persons; and
10. The order (form GC-340) would be revised to provide a new item 16, findings concerning the status of the conservator or successor conservator as a domestic partner or former domestic partner of the conservatee (Prob. Code, § 1813.1). The order, unlike the petition, was not revised to incorporate this provision after section 1813.1 was enacted in 2001.³

Alternative Actions Considered

The advisory committee initially considered proposing the adoption of separate forms for the appointment of a successor conservator. This alternative was rejected because the existing petition and order required revisions in any event and the advisory committee believes that the number of successor conservator appointments is likely not to be great enough to require or support separate forms.

Comments From Interested Persons

This proposal was circulated to a standard list of court executives, judicial officers, and organizations and also to an augmented list of probate practitioners, probate department staff, and probate-related legal organizations, including the State Bar Trusts and Estates Section and probate-interest sections of many local or regional bar associations. Attached at pages 29–35 is a chart showing the comments received and the advisory committee's responses.

Eight comments were received, all favorable. Seven commentators made no recommendations for additional changes. One commentator, the Superior Court, Los Angeles County, requested several changes in the petition and one additional revision in the order. The advisory committee supports three of the court's suggestions for changes in the petition.

The first and second of these three recommendations are related. They address situations when a successor conservator is required (1) after the conservatee has been determined to lack capacity to consent to any form of medical treatment so that exclusive authority to consent to such treatment was given to the prior conservator⁴, or (2) the prior conservator was given dementia powers under Probate Code section 2356.5. The superior court recommended that the petition for appointment of successor conservator be revised to permit the petitioner to request the same medical consent authority or the same dementia powers held by the prior conservator based on the court's previous orders, without requiring the

³ Stats.2001, ch. 893 (Assem. Bill 25), § 16.5.

⁴ See Probate Code sections 1880–1898.

petitioner to establish the same facts previously determined by the court by filing new capacity declarations (forms GC-335 and GC-335A). The advisory committee has agreed with the court's recommendations.⁵

First, the committee has revised the petition by adding an optional statement to item 9 of the petition, concerning the (proposed) conservatee's incapacity to make medical decisions. The statement says that the petitioner will not be filing a capacity declaration in support of the petition's request for exclusive authority to consent to the conservatee's medical treatment because the petitioner is relying solely on a prior order granting such authority that has neither expired nor been revoked.⁶ The court would retain discretion to require a new capacity determination on its own motion or in response to a request by the conservatee made directly, through counsel, or through the court investigator in his or her report under Probate Code section 1894. The conservatee's spouse or domestic partner, relative, friend, or other interested person would retain the right to appear at the hearing to support or oppose the petition's request for medical consent powers under Probate Code section 1895.

Second, the committee has revised item 1k on page 2 of the petition to include a similar reference to a prior order granting dementia powers that has neither expired by its terms nor been revoked as the sole basis for a new order granting dementia powers under Probate Code section 2356.5, thereby making the filing of a new capacity declaration and the dementia attachment (forms GC-335 and GC-335A) unnecessary. As with the order granting exclusive authority to consent to medical treatment mentioned above, the court would have discretion to require a new showing to support dementia powers for the successor conservator on its own motion, in response to a report of a court investigator under subdivision (g) of section 2356.5, or on request of the conservatee or his or her counsel, including appointed counsel required under that subdivision.

⁵ In both of these situations a new order is necessary, even though based only on the showing made by the previous conservator because the new order would identify the successor conservator by name as the holder of the powers granted.

⁶ See revised items 9b and new item 9c at page 5 of form GC-310. Probate Code section 1897 provides that an order determining that the conservatee lacks capacity to give informed consent to any form of medical treatment under section 1880 continues in effect until the earliest of the date specified in the order, the time the order is modified or revoked, or the time the conservatorship is terminated. A general conservatorship terminates on the conservatee's death or on an order of the court (restoring the conservatee) (Prob. Code § 1860). It does not terminate because of a change in conservators. Thus it is possible and even likely that an incapacity order entered during a previous conservatorship administration will continue in effect upon the appointment of a successor conservator.

The third recommendation from the Superior Court, Los Angeles County with which the advisory committee agrees is to clarify the introductory sentences of items 6 and 7 of the petition, concerning the spouse or domestic partner of the (proposed) conservatee. Language intended to accomplish this is shown in the attached comment chart and in items 6 and 7 of the revised petition, at page 5.

The advisory committee disagrees with the other recommendations made by the Los Angeles court for the reasons given in the attached chart.

Implementation Requirements and Costs

This proposal should incur only those costs associated with the revision and distribution of any Judicial Council form.

Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2006, revise the *Petition for Appointment of Probate Conservator* (form GC-310) and the *Order Appointing Probate Conservator* (form GC-340) to provide for the appointment of a successor conservator, conform them to the latest requirements of the law, and make them easier to understand and complete.

Attached are copies of:

1. Revised *Petition for Appointment of Probate Conservator* (form GC-310) at pages 12–17;
2. Revised *Order Appointing Probate Conservator* (form GC-340) at pages 18–20; and

Existing forms GC-310 and GC-340 at pages 21–28.

Attachments

| | | | |
|--|---|------------------------|--------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ | FOR COURT USE ONLY | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | | | |
| CONSERVATORSHIP OF (Name): _____ <div style="text-align: right;">(PROPOSED) CONSERVATEE</div> | | | |
| PETITION FOR APPOINTMENT OF <input type="checkbox"/> SUCCESSOR PROBATE CONSERVATOR OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE <input type="checkbox"/> Limited Conservatorship | CASE NUMBER: <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:80%; padding: 2px;">HEARING DATE AND TIME:</td> <td style="width:20%; padding: 2px;">DEPT.:</td> </tr> </table> | HEARING DATE AND TIME: | DEPT.: |
| HEARING DATE AND TIME: | DEPT.: | | |

1. **Petitioner (name):**

requests that

a. (Name):
(Address):

(Telephone):

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

b. (Name):
(Address):

(Telephone):

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

- c. (1) bond not be required because the proposed successor conservator is a corporate fiduciary or an exempt government agency. for the reasons stated in Attachment 1c.
- (2) bond be fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law. (Specify reasons in Attachment 1c if the amount is different from the minimum required by Probate Code section 2320.)
- (3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. (Specify institution and location):

- d. orders authorizing independent exercise of powers under Probate Code section 2590 be granted. Granting the proposed successor conservator of the estate powers to be exercised independently under Probate Code section 2590 would be to the advantage and benefit and in the best interest of the conservatorship estate. (Specify orders, powers, and reasons in Attachment 1d.)
- e. orders relating to the capacity of the (proposed) conservatee under Probate Code section 1873 or 1901 be granted. (Specify orders, facts, and reasons in Attachment 1e.)
- f. orders relating to the powers and duties of the proposed successor conservator of the person under Probate Code sections 2351–2358 be granted. (Specify orders, facts, and reasons in Attachment 1f.)
- g. the (proposed) conservatee be adjudged to lack the capacity to give informed consent for medical treatment or healing by prayer and that the proposed successor conservator of the person be granted the powers specified in Probate Code section 2355. (Complete item 9 on page 5.)

Do NOT use this form for a temporary conservatorship.

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

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

2. **(Proposed) conservatee** is (name):

(Present address):

(Telephone):

3. a. **Jurisdictional facts** (initial appointment only): The proposed conservatee has no conservator in California and is a

- (1) resident of California and
- (a) a resident of this county.
- (b) not a resident of this county, but commencement of the conservatorship in this county is in the best interests of the proposed conservatee. (Specify reasons in Attachment 3a.)
- (2) nonresident of California but
- (a) is temporarily living in this county, or
- (b) has property in this county, or
- (c) commencement of the conservatorship in this county is in the best interest of the proposed conservatee. (Specify reasons in Attachment 3a.)

b. **Petitioner**

- (1) is is not a **creditor** or an agent of a creditor of the (proposed) conservatee.
- (2) is is not a **debtor** or an agent of a debtor of the (proposed) conservatee.

c. **Proposed** **successor conservator** is (check all that apply):

- (1) a nominee. (Affix nomination as Attachment 3c.)
- (2) the spouse of the (proposed) conservatee.
- (3) the domestic partner or former domestic partner of the (proposed) conservatee.
- (4) a relative of the (proposed) conservatee as (specify relationship):
- (5) a bank other entity authorized to conduct the business of a trust company.
- (6) a nonprofit charitable corporation that meets the requirements of Probate Code section 2104.
- (7) a private professional conservator, as defined in Probate Code section 2341, who has filed with the court the information statement required by Probate Code section 2342.
- (8) (a) registered with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the California Department of Justice under Probate Code sections 2850–2855. The current registration declaration on file will expire on (date):
- (b) exempt from statewide registration under Probate Code section (specify): (Explain basis for exemption in Attachment 3c.)
- (9) other (specify):

* See Item 5b on page 3.

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

3. d. **Petitioner is**

- (1) the (proposed) conservatee.
- (2) the spouse of the (proposed) conservatee.
- (3) the domestic partner or former domestic partner of the (proposed) conservatee.
- (4) a relative of the (proposed) conservatee as *(specify relationship)*:
- (5) a bank other entity authorized to conduct the business of a trust company.
- (6) a state or local public entity, officer, or employee.
- (7) an interested person or friend of the (proposed) conservatee.
- (8) the proposed successor conservator.
- (9) the guardian of the proposed conservatee.

e. **Character and estimated value of the property of the estate** *(complete items (1) or (2) and (3), (4), and (5)):*

(1) *(For appointment of successor conservator only, if complete Inventory and Appraisal filed by predecessor):*
 Personal property: \$ _____, per Inventory and Appraisal filed in this proceeding on
(specify dates of filing of all inventories and appraisals):

- (2) Estimated value of personal property: \$ _____
- (3) Annual gross income from
 - (a) real property: \$ _____
 - (b) personal property: \$ _____
 - (c) pensions: \$ _____
 - (d) wages: \$ _____
 - (e) public assistance benefits: \$ _____
 - (f) other: \$ _____
- (4) **Total** of (1) or (2) and (3): \$ _____
- (5) Real property: \$ _____
 - (a) per Inventory and Appraisal identified in item (1).
 - (b) estimated value.

4. **(Proposed) conservatee**

- a. is is not a patient in or on leave of absence from a state institution under the jurisdiction of the California Department of Mental Health or the California Department of Developmental Services *(specify state institution)*:
- b. is receiving or entitled to receive is neither receiving nor entitled to receive benefits from the U.S. Department of Veterans Affairs *(estimate amount of monthly benefit payable)*: \$ _____
- c. is is not able to complete an affidavit of voter registration.

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

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

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

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

| | |
|---|--------------------------|
| CONSERVATORSHIP OF (Name): CONSERVATEE | CASE NUMBER: |
|---|--------------------------|

5. d. **(Proposed) conservatee** voluntarily requests the appointment of a successor conservator.
(Specify facts showing good cause in Attachment 5(d).)
- e. Confidential Supplemental Information (form GC-312) is filed with this petition. (Initial appointment of conservator only. All petitioners must file this form except banks and other entities authorized to do business as a trust company.)
- f. **(Proposed) conservatee** is is not developmentally disabled as defined in Probate Code section 1420. Petitioner is aware of the requirements of Probate Code section 1827.5. (Specify the nature and degree of the alleged disability in Attachment 5f).
6. **Petitioner or proposed** **successor conservator is the spouse of the (proposed) conservatee.**
(If this statement is true, you must answer a or b.)
- a. The (proposed) conservatee's spouse is not a party to any action or proceeding against the (proposed) conservatee for legal separation, dissolution of marriage, annulment, or adjudication of nullity of their marriage.
- b. Although the (proposed) conservatee's spouse is a party to an action or proceeding against the (proposed) conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage, or has obtained a judgment in one of these proceedings, it is in the best interest of the (proposed) conservatee that:
- (1) a successor conservator be appointed.
- (2) the spouse be appointed as the successor conservator.
- (If you checked item 6b(1) or (2) or both, specify the facts and reasons in Attachment 6b.)
7. **Petitioner or proposed** **successor conservator is the domestic partner or former domestic partner of the (proposed) conservatee.** (If this statement is true, you must answer a or b.):
- a. The domestic partner of the (proposed) conservatee has not terminated and does not intend to terminate the domestic partnership.
- b. Although the domestic partner or former domestic partner of the (proposed) conservatee intends to terminate or has terminated the domestic partnership, it is in the best interest of the (proposed) conservatee that:
- (1) a successor conservator be appointed.
- (2) the domestic partner or former domestic partner be appointed as the successor conservator.
- (If you checked item 7b(1) or (2) or both, specify the facts and reasons in Attachment 7b.)
8. **(Proposed) conservatee** (check all that apply):
- a. will attend the hearing AND is the petitioner is not the petitioner AND has has not nominated the proposed successor conservator.
- b. (initial appointment of conservator only): is able but unwilling to attend the hearing AND does does not wish to contest the establishment of a conservatorship, does does not object to the proposed conservator, AND does does not prefer that another person act as conservator.
- c. (initial appointment of conservator only): is unable to attend the hearing because of medical inability. A *Capacity Declaration—Conservatorship* (form GC-335), executed by a licensed medical practitioner or an accredited religious practitioner is filed with this petition. will be filed before the hearing.
- d. (initial appointment of conservator only): is not the petitioner, is out of state, and will not attend the hearing.
- e. (appointment of successor conservator only): will not attend the hearing.
9. **Medical treatment of (proposed) conservatee**
- a. There is no form of medical treatment for which the (proposed) conservatee has the capacity to give an informed consent.
- b. A *Capacity Declaration—Conservatorship* (form GC-335) executed by a licensed physician or by a licensed psychologist acting within the scope of his or her licensure, stating that the (proposed) conservatee lacks the capacity to give informed consent for any form of medical treatment and giving reasons and the factual basis for this conclusion, is filed with this petition. will be filed before the hearing. will not be filed for the reason stated in c.
- c. (appointment of successor conservator only) The conservatee's incapacity to consent to any form of medical treatment was determined by order filed in this matter on (date):
That order has neither expired by its terms nor been revoked.
- d. (Proposed) conservatee is is not an adherent of a religion that relies on prayer alone for healing, as defined in Probate Code section 2355(b).

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

10. **Temporary conservatorship**
 Filed with this petition is a *Petition for Appointment of Temporary Guardian or Conservator* (form GC-110).

11. **(Proposed) conservatee's relatives**
 The names, residence addresses, and relationships of the spouse or registered domestic partner and the second-degree relatives of the (proposed) conservatee (his or her parents, grandparents, children, grandchildren, and brothers and sisters), so far as known to petitioner, are

a. listed below.

b. not known, or none are now living, so the (proposed) conservatee's deemed relatives under Probate Code section 1821(b)(1)–(4) are listed below.

| | <u>Name and relationship to conservatee</u> | <u>Residence address</u> |
|-----|---|--------------------------|
| (1) | | |
| (2) | | |
| (3) | | |
| (4) | | |
| (5) | | |
| (6) | | |

Continued on Attachment 11.

12. **Confidential conservator screening form**
 Submitted with this petition is a *Confidential Conservator Screening Form* (form GC-314) completed and signed by the proposed successor conservator. *(Required for all proposed conservators except banks and trust companies.)*

13. **Court investigator**
 Filed with this petition is a proposed *Order Appointing Court Investigator* (form GC-330).

14. Number of pages attached: _____

Date: _____

| | | |
|---|---|--|
| (TYPE OR PRINT NAME OF ATTORNEY FOR PETITIONER) | ▶ | (SIGNATURE OF ATTORNEY FOR PETITIONER) |
|---|---|--|

(All petitioners must also sign (Prob. Code, § 1020; Cal. Rules of Court, rule 7.103).)

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 PETITIONER) | ▶ | (SIGNATURE OF PETITIONER) |
| (TYPE OR PRINT NAME OF PETITIONER) | ▶ | (SIGNATURE OF PETITIONER) |

| | |
|--|---------------------------|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| CONSERVATORSHIP OF (Name): _____ | CONSERVATEE |
| ORDER APPOINTING <input type="checkbox"/> SUCCESSOR PROBATE CONSERVATOR OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE <input type="checkbox"/> Limited Conservatorship | CASE NUMBER: _____ |

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

1. The petition for appointment of successor conservator came on for hearing as follows (check boxes c, d, e, and f or g to indicate personal presence):
 - a. Judicial Officer (name): _____
 - b. Hearing date: _____ Time: _____ Dept.: _____ Room: _____
 - c. Petitioner (name): _____
 - d. Attorney for petitioner (name): _____
 - e. Attorney for person cited the conservatee on petition to appoint successor conservator:
 (Name): _____ (Telephone): _____
 (Address): _____
 - f. Person cited was present. unable to attend. able but unwilling to attend. out of state.
 - g. The conservatee on petition to appoint successor conservator was present. not present.

THE COURT FINDS

2. All notices required by law have been given.
3. (Name): _____
 - a. is unable properly to provide for his or her personal needs for physical health, food, clothing, or shelter.
 - b. is substantially unable to manage his or her financial resources or to resist fraud or undue influence.
 - c. has voluntarily requested appointment of a conservator and good cause has been shown for the appointment.
4. The conservatee
 - a. is an adult.
 - b. will be an adult on the effective date of this order.
 - c. is a married minor.
 - d. is a minor whose marriage has been dissolved.
5. There is no form of medical treatment for which the conservatee has the capacity to give an informed consent.
 The conservatee is an adherent of a religion defined in Probate Code section 2355(b).
6. Granting the successor conservator powers to be exercised independently under Probate Code section 2590 is to the advantage and benefit and in the best interest of the conservatorship estate.
7. The conservatee is not capable of completing an affidavit of voter registration.
8. The conservatee has dementia as defined in Probate Code section 2356.5, and the court finds all other facts required to make the orders specified in item 27.

Do NOT use this form for a temporary conservatorship.

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

9. Attorney (name): _____ has been appointed by the court as legal counsel to represent the conservatee in these proceedings. The cost for representation is: \$ _____
The conservatee has the ability to pay all none a portion of this sum (specify): \$ _____
10. The conservatee need not attend the hearing.
11. The appointed court investigator is (name): _____
(Address and telephone): _____
12. (For limited conservatorship only) The limited conservatee is developmentally disabled as defined in Probate Code section 1420.
13. The successor conservator is a private professional conservator as defined by Probate Code section 2341 who has filed with the court the confidential statement required by Probate Code section 2342.
14. The successor conservator (check a or b):
- a. is currently registered with the Statewide Registry of Private Conservators, Guardians, and Trustees maintained by the California Department of Justice under Probate Code sections 2850–2855.
- b. is exempt from statewide registration under Probate Code sections 2850–2855.
15. (Either a, b, or c must be checked):
- a. The successor conservator is not the spouse of the conservatee.
- b. The successor conservator is the spouse of the conservatee and is not a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage.
- c. The successor conservator is the spouse of the conservatee and is a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage. It is in the best interests of the conservatee to appoint the spouse as successor conservator.
16. (Either a, b, or c must be checked):
- a. The successor conservator is not the domestic partner or former domestic partner of the conservatee.
- b. The successor conservator is the domestic partner of the conservatee and has neither terminated nor intends to terminate their domestic partnership.
- c. The successor conservator is the domestic partner or former domestic partner of the conservatee and intends to terminate or has terminated their domestic partnership. It is in the best interest of the conservatee to appoint the domestic partner or former domestic partner as successor conservator.

THE COURT ORDERS

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

is appointed successor conservator limited conservator of the PERSON of (name): _____
and Letters of Conservatorship shall issue upon qualification.
- b. (Name): _____ (Telephone): _____
(Address): _____

is appointed successor conservator limited conservator of the ESTATE of (name): _____
and Letters of Conservatorship shall issue upon qualification.
18. The conservatee need not attend the hearing.
19. 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 19c.
- d. The successor conservator is not authorized to take possession of money or any other property without a specific court order.

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

20. For legal services rendered, conservatee conservatee's estate parents of the minor minor's estate shall pay to (name): _____ the sum of: \$ _____
 forthwith as follows (specify terms, including any combination of payors): _____

- Continued in Attachment 20.
21. The conservatee is disqualified from voting.
22. The conservatee lacks the capacity to give informed consent for medical treatment and the successor conservator of the person is granted the powers specified in Probate Code section 2355.
 The treatment shall be performed by an accredited practitioner of a religion as defined in Probate Code section 2355(b).
23. The successor conservator of the estate is granted authorization under Probate Code section 2590 to exercise independently the powers specified in Attachment 23 subject to the conditions provided.
24. Orders relating to the capacity of the conservatee under Probate Code sections 1873 or 1901 as specified in Attachment 24 are granted.
25. Orders relating to the powers and duties of the successor conservator of the person under Probate Code sections 2351–2358 as specified in Attachment 25 are granted. (Do not include orders under Probate Code section 2356.5 relating to dementia.)
26. Orders relating to the conditions imposed under Probate Code section 2402 on the successor conservator of the estate as specified in Attachment 26 are granted.
27. a. The successor conservator of the person is granted authority to place the conservatee in a care or nursing facility described in Probate Code section 2356.5(b).
b. The successor conservator of the person is granted authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c).
28. Other orders as specified in Attachment 28 are granted.
29. The probate referee appointed is (name and address): _____

30. (For limited conservatorship only) Orders relating to the powers and duties of the successor limited conservator of the person under Probate Code section 2351.5 as specified in Attachment 30 are granted.
31. (For limited conservatorship only) Orders relating to the powers and duties of the successor limited conservator of the estate under Probate Code section 1830(b) as specified in Attachment 31 are granted.
32. (For limited conservatorship only) Orders limiting the civil and legal rights of the limited conservatee as specified in Attachment 32 are granted.

33. This order is effective on the date signed date minor attains majority (specify): _____

34. Number of boxes checked in items 17–33: _____

35. 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> _____ | FOR COURT USE ONLY |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME: | |
| CONSERVATORSHIP OF <i>(Name):</i> <div style="text-align: right;">PROPOSED CONSERVATEE</div> | |
| PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE <input type="checkbox"/> Limited Conservatorship | CASE NUMBER: |

1. **Petitioner** *(name):* _____ **requests that**
 a. *(Name and address):* _____ *(Telephone):* _____

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

b. *(Name and address):* _____ *(Telephone):* _____

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

- c. (1) bond not be required because proposed conservator is a corporate fiduciary or an exempt government agency for the reasons stated in Attachment 1c.
- (2) bond be fixed at: \$ _____ to be furnished by an authorized surety company or as otherwise provided by law. *(Specify reasons if the amount is different from the minimum required by Probate Code section 2320.)*
- (3) \$ _____ in deposits in a blocked account be allowed. Receipts will be filed. *(Specify institution and location):*
- d. orders authorizing independent exercise of powers under Probate Code section 2590 be granted. *(Specify powers and reasons in Attachment 1d.)*
- e. orders relating to the capacity of the proposed conservatee under Probate Code section 1873 or 1901 be granted. *(Specify orders, facts, and reasons in Attachment 1e.)*
- f. orders relating to the powers and duties of the proposed conservator of the person under Probate Code sections 2351–2358 be granted. *(Specify orders, facts, and reasons in Attachment 1f.)*
- g. the proposed conservatee be adjudged to lack the capacity to give informed consent for medical treatment or healing by prayer and that the proposed conservator of the person be granted the powers specified in Probate Code section 2355.
- h. *(for limited conservatorship only)* orders relating to the powers and duties of the proposed limited conservator of the person under Probate Code section 2351.5 be granted. *(Specify powers and duties in Attachment 1h.)*
- i. *(for limited conservatorship only)* orders relating to the powers and duties of the proposed limited conservator of the estate under Probate Code section 1830(b) be granted. *(Specify powers and duties in Attachment 1i.)*
- j. *(for limited conservatorship only)* orders limiting the civil and legal rights of the proposed limited conservatee be granted. *(Specify limitations in Attachment 1j.)*
- k. orders related to dementia treatment or placement as specified in the *Attachment Requesting Special Orders Regarding Dementia* (form GC-313) under Probate Code section 2356.5 be granted.
- l. other orders be granted. *(Specify in Attachment 1l.)*

| | |
|---|---------------------------|
| CONSERVATORSHIP OF (Name): _____ | CASE NUMBER: _____ |
| PROPOSED CONSERVATEE | |

2. **Proposed conservatee** is (name):
(Present address):

(Telephone):

3. a. **JURISDICTIONAL FACTS** The proposed conservatee has no conservator within California and is a

- (1) resident of California and
 - (a) a resident of this county.
 - (b) not a resident of this county, but commencement of the conservatorship in this county is in the best interests of the proposed conservatee. (Specify reasons in Attachment 3a.)
- (2) nonresident of California but
 - (a) is temporarily living in this county, **or**
 - (b) has property in this county, **or**
 - (c) commencement of the conservatorship in this county is in the best interests of the proposed conservatee. (Specify reasons in Attachment 3a.)

b. Petitioner

- (1) is is not a **creditor** or an agent of a creditor of the proposed conservatee.
- (2) is is not a **debtor** or an agent of a debtor of the proposed conservatee.

c. Proposed conservator is

- (1) a nominee. (Affix nomination as Attachment 3c.)
- (2) the spouse of the proposed conservatee.
- (3) the domestic partner or former domestic partner of the proposed conservatee.
- (4) a relative of the proposed conservatee as (specify relationship):
- (5) a private professional conservator, as defined in Probate Code section 2341, who has filed with the county clerk the information statement required by Probate Code section 2342.
- (6) other (specify):

d. Petitioner is

- (1) the proposed conservatee.
- (2) the spouse of the proposed conservatee.
- (3) the domestic partner or former domestic partner of the proposed conservatee.
- (4) a relative of the proposed conservatee as (specify relationship):
- (5) a state or local public entity, officer, or employee.
- (6) a bank other entity authorized to conduct the business of a trust company.
- (7) an interested person or friend of the proposed conservatee.
- (8) a private professional conservator who has filed the information statement (Probate Code, § 2342).
- (9) the guardian of the proposed conservatee.

e. Character and estimated value of the property of the estate

- | | | |
|---------------------------------|-----------|-----------------------|
| (1) Personal property: | \$ | |
| (2) Annual gross income from | | (3) Real property: \$ |
| (a) real property: | \$ | |
| (b) personal property: | \$ | |
| (c) pensions: | \$ | |
| (d) wages: | \$ | |
| (e) public assistance benefits: | \$ | |
| (f) other: | \$ | |
| Total of (1) and (2): | \$ | |

4. Proposed conservatee

- a. Proposed Conservatee is is not a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services (specify state institution):
- b. Proposed conservatee is receiving or entitled to receive is neither receiving nor entitled to receive benefits from the Department of Veterans Affairs (estimate amount of monthly benefit payable): \$
- c. Proposed conservatee is is not able to complete an affidavit of voter registration.

| | |
|---|----------------------|
| CONSERVATORSHIP OF <i>(Name)</i> : _____ | CASE NUMBER: |
| PROPOSED CONSERVATEE | |

5. a. **Proposed conservatee**

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

b. **Proposed conservatee** requires a conservator and is

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

- (2) substantially unable to manage his or her financial resources or to resist fraud or undue influence.
Supporting facts are specified in Attachment 5b(2) as follows:

Continued on page 4.

| | |
|--|--------------|
| CONSERVATORSHIP OF (Name): PROPOSED CONSERVATEE | CASE NUMBER: |
|--|--------------|

5. b. (2) (continued)

- c. **Proposed conservatee** voluntarily requests the appointment of a conservator. (Specify facts showing good cause in Attachment 5(c).)
 - d. Confidential Supplemental Information (form GC-312) is filed with this petition. (All petitioners must file this form except banks and other entities authorized to do business as a trust company.)
 - e. **Proposed conservatee** is is not developmentally disabled as defined in Probate Code section 1420 (specify the nature and degree of the alleged disability in Attachment 5e). Petitioner is aware of the requirements of Probate Code section 1827.5.
6. (If either the **petitioner** or the **proposed conservator** is the spouse of the proposed conservatee, petitioner must answer a or b.)
- a. The spouse is not a party to any action or proceeding against the proposed conservatee for legal separation, dissolution of marriage, annulment, or adjudication of nullity of their marriage.
 - b. Although the spouse is a party to an action or proceeding against the proposed conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage, or has obtained a judgment in one of these proceedings, it is in the best interests of the proposed conservatee that:
 - (1) a conservator be appointed.
 - (2) the spouse be appointed as the conservator. (If you checked item 6b(1) or (2) or both, specify the facts and reasons in Attachment 6b.)
7. (If either the **petitioner** or the **proposed conservator** is the domestic partner or former domestic partner of the proposed conservatee, petitioner must answer a or b.)
- a. The domestic partner of the proposed conservatee has not terminated and does not intend to terminate the domestic partnership.
 - b. Although the domestic partner or former domestic partner of the proposed conservatee has terminated or intends to terminate the domestic partnership, it is in the best interest of the proposed conservatee that:
 - (1) a conservator be appointed.
 - (2) the domestic partner or former domestic partner be appointed as the conservator. (If you checked item 7b(1) or (2) or both, specify the facts and reasons in Attachment 7b.)

| | |
|---|---------------------------|
| CONSERVATORSHIP OF (Name): _____ | CASE NUMBER: _____ |
| PROPOSED CONSERVATEE | |

8. ATTENDANCE AT HEARING **Proposed conservatee**

- a. will attend the hearing AND is the petitioner is not the petitioner AND has has not nominated the proposed conservator.
- b. is able but unwilling to attend the hearing AND does does not wish to contest the establishment of a conservatorship, does does not object to the proposed conservator, AND does does not prefer that another person act as conservator.
- c. is unable to attend the hearing because of medical inability. An affidavit or certificate of a licensed medical practitioner or an accredited religious practitioner is affixed as Attachment 8c.
- d. is not the petitioner, is out of state, and will not attend the hearing.

9. Granting the proposed conservator of the estate powers to be exercised independently under Probate Code section 2590 would be to the advantage and benefit and in the best interest of the conservatorship estate. Powers and reasons are specified in Attachment 9.

- 10. a. There is no form of medical treatment for which the proposed conservatee has the capacity to give an informed consent.
- b. A declaration executed by a licensed physician, stating that the proposed conservatee lacks the capacity to give informed consent for any form of medical treatment and giving reasons and the factual basis for this conclusion, is attached as Attachment 10 will be filed before the hearing.
- c. Proposed conservatee is is not an adherent of a religion that relies on prayer alone for healing, as defined in Probate Code section 2355(b).

11. Filed with this petition is a *Petition for Appointment of Temporary Conservator* (form GC-110).

12. The names, residence addresses, and relationships of the spouse and all relatives within the second degree of the proposed conservatee, so far as known to petitioner, are

- a. listed below listed in Attachment 12a.
- b. none.
- c. not known, so relatives under Probate Code section 1821(b)(1)-(4) are listed below listed in Attachment 12c.

| | <u>Relationship and name</u> | <u>Residence address</u> |
|-----|------------------------------|--------------------------|
| (1) | | |
| (2) | | |

13. Filed with this petition is a proposed *Order Appointing Court Investigator* (form GC-330).

14. Number of pages attached: _____

Date:
(All petitioners must also sign (Prob. Code, § 1020).)

 (SIGNATURE OF ATTORNEY)

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)

 (SIGNATURE OF PETITIONER)

(TYPE OR PRINT NAME)

 (SIGNATURE OF PETITIONER)

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

13. The conservator is a private professional conservator as defined by Probate Code section 2341 who has filed with the county clerk the confidential statement required by Probate Code section 2342.
14. (Either a, b, or c must be checked):
- a. The conservator is not the spouse of the conservatee.
- b. The conservator is the spouse of the conservatee and is not a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage.
- c. The conservator is the spouse of the conservatee and is a party to an action or proceeding against the conservatee for legal separation, dissolution, annulment, or adjudication of nullity of their marriage. It is in the best interests of the conservatee to appoint the spouse as conservator.

THE COURT ORDERS

15. a. (Name): _____ (Telephone): _____
 (Address): _____
- is appointed** conservator limited conservator of the PERSON of (name): _____
 and Letters of Conservatorship shall issue upon qualification.
- b. (Name): _____ (Telephone): _____
 (Address): _____
- is appointed** conservator limited conservator of the ESTATE of (name): _____
 and Letters of Conservatorship shall issue upon qualification.
16. Conservatee need not attend the hearing.
17. 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 17c.
- d. The conservator is not authorized to take possession of money or any other property without a specific court order.
18. For legal services rendered, conservatee conservatee's estate parents of the minor minor's estate shall pay to (name): _____ the sum of: \$ _____ forthwith as specified in Attachment 18 as follows (specify terms, including any combination of payors): _____
19. Conservatee is disqualified from voting.
20. Conservatee lacks the capacity to give informed consent for medical treatment and the conservator of the person is granted the powers specified in Probate Code section 2355. The treatment shall be performed by an accredited practitioner of a religion as defined in Probate Code section 2355(b).
21. The conservator of the estate is granted authorization under Probate Code section 2590 to exercise independently the powers specified in Attachment 21 subject to the conditions provided.
22. Orders relating to the capacity of the conservatee under Probate Code sections 1873 or 1901 as specified in Attachment 22 are granted.
23. Orders relating to the powers and duties of the conservator of the person under Probate Code sections 2351-2358 as specified in Attachment 23 are granted. (Do not include orders under Probate Code section 2356.5 relating to dementia.)
24. Orders relating to the conditions imposed under Probate Code section 2402 upon the conservator of the estate as specified in Attachment 24 are granted.
25. a. The conservator of the person is granted authority to place conservatee in a care or nursing facility described in Probate Code section 2356.5(b).
- b. The conservator of the person is granted authority to authorize the administration of medications appropriate for the care and treatment of dementia described in Probate Code section 2356.5(c).

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

- 26. Other orders as specified in Attachment 26 are granted.
- 27. The probate referee appointed is (*name and address*):

- 28. (*For limited conservatorship only*) Orders relating to the powers and duties of the limited conservator of the person under Probate Code section 2351.5 as specified in Attachment 28 are granted.
- 29. (*For limited conservatorship only*) Orders relating to the powers and duties of the limited conservator of the estate under Probate Code section 1830(b) as specified in Attachment 29 are granted.
- 30. (*For limited conservatorship only*) Orders limiting the civil and legal rights of the limited conservatee as specified in Attachment 30 are granted.
- 31. This order is effective on the date signed date minor attains majority (*specify*):
- 32. Number of boxes checked in items 15-31: _____
- 33. Number of pages attached: _____

Date: _____

 JUDGE OF THE SUPERIOR COURT
 SIGNATURE FOLLOWS LAST ATTACHMENT

SPR05-40
Probate Conservatorships: Appointment of a Successor Conservator
(revise forms GC-310 and GC-340)

| | Commentator | Position | Comment on behalf of group? | Comment | Response of the Probate and Mental Health Advisory Committee |
|----|--|-----------------|------------------------------------|---|---|
| 1. | Ms. Grace Andres Program Manager Superior Court of California, County of Solano Fairfield, California | Y | N | Agree with proposed changes. | No response necessary. |
| 2. | Ms. Linda A. Gorham Court Manager Superior Court of California, County of San Francisco San Francisco, California | A | N | Agree with proposed changes. | No response necessary. |
| 3. | Mr. Samuel D. Ingham Attorney at Law Certified Specialist, Estate Planning, Trust, and Probate Law Beverly Hills, California | A | N | Agree with proposed changes. | No response necessary. |
| 4. | Mr. Scott Jones Court Program Manager Superior Court of California, County of Ventura Ventura, California | A | N | There was a need for changes in the forms. I favor that the conservatee is interviewed/investigated when appropriate. I favor no court appearance for conservatee if investigative report concurs with the allegation that the conservatee declines to attend the hearing (form GC-310, item 8(e)). | No response necessary. |

SPR05-40
Probate Conservatorships: Appointment of a Successor Conservator
(revise forms GC-310 and GC-340)

| | Commentator | Position | Comment on behalf of group? | Comment | Response of the Probate and Mental Health Advisory Committee |
|----|---|-----------------|------------------------------------|---|--|
| 5. | Mr. Stephen V. Love Court Executive Officer Superior Court of California, County of San Diego San Diego, California | A | N | Agree with proposed changes. | No response necessary. |
| 6. | Ms. Emily Stuhlbarg Private Professional Conservator Emily Stuhlbarg & Associates, Inc. Torrance, California | A | Y | Very helpful to streamline process, while also protecting the conservatee when a successor conservator is needed. | No response necessary. |
| 7. | Superior Court of California, County of Los Angeles Los Angeles, California (commentator not identified) | AM | Y | <p>Petition for Appointment of Probate Conservator</p> <p>Paragraph 1c(1) should include a box for “the estate satisfies the requirements of Probate Code section 2323”.</p> <p>Paragraph 1g and 9b should include, re successor appointments: “the court has adjudged that the conservatee lacks medical capacity and that order has not been modified or revoked, Probate Code section 1897.</p> | <p>The advisory committee disagrees with this recommendation because it is unnecessary. The form requires an attachment for additional reasons why no bond is required. These reasons include satisfaction of the requirements of section 2323 (estate consisting solely of public benefits).</p> <p>The advisory committee disagrees with the recommended change of item 1g. That item would not readily accommodate this change, and reference to a prior order is not</p> |

SPR05-40
Probate Conservatorships: Appointment of a Successor Conservator
(revise forms GC-310 and GC-340)

| | Commentator | Position | Comment on behalf of group? | Comment | Response of the Probate and Mental Health Advisory Committee |
|--|-------------|----------|-----------------------------|---------|---|
| | | | | | <p>required there. The committee agrees with the comment concerning item 9, however, and has revised it by adding an additional check box and optional text to item 9b and a new item 9c, for use only when the appointment of a successor conservator is sought together with a request for exclusive authority to consent to the conservatee’s medical treatment. The new allegation in item 9b would state that a capacity declaration in support of a request for exclusive authority will not be filed for the reason stated in item 9c. The latter item would identify an unexpired or unrevoked prior order determining that the conservatee lacks the capacity to consent to any form of medical treatment as the sole basis for a request for exclusive authority to consent by the successor conservator.</p> <p>A new determination of incapacity, even if based solely on the prior order, and a new order granting the successor conservator exclusive authority to consent to</p> |

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|--|-------------|----------|-----------------------------|---|---|
| | | | | <p>Could similar language be added to paragraph 1k re dementia orders? There isn't a provision in Probate Code section 2356.5 about the duration of dementia orders.</p> <p>Paragraph 3e(1) should be corrected, re successor conservators: Inventory and Appraisals or estimated fair market value of assets on hand as reported in the former conservator's last account plus estimated annual income from all sources.</p> | <p>medical treatment would be preferable to reliance on an order granting to a former conservator the exclusive authority to consent to medical treatment.</p> <p>The court would retain discretion to decide whether a new capacity declaration should be required and an entirely new incapacity determination made.</p> <p>The advisory committee agrees with this recommendation, and has revised item 1k of the petition to permit a request for dementia powers to be supported solely by a prior order granting these powers to a previous conservator.</p> <p>The advisory committee disagrees with this proposed change. Estimated annual income from all sources must be stated in all cases currently in item 3e(3) of the petition. Use of the inventory values filed by the prior conservator does not eliminate this requirement.</p> |

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| | | | | <p>Paragraph 6, first line: unclear—Why is the reference to “Spouse of petitioner...”? Should it provide “Petitioner is the spouse of conservatee or is the proposed conservator”? Paragraph 7 re domestic partner – see comment re Paragraph 6 above.</p> <p>Paragraph 9 – Appears there should be a paragraph following paragraph 9 regarding dementia orders and the Dementia Attachment [GC 335A] to the Capacity Declaration. This is consistent with requests for orders that the conservatee is unable to give informed consent to medical treatment and the filing of the Capacity Declarations [GC-335] required under existing paragraph 9.</p> <p>It would be helpful for the form to include a provision concerning the language spoken by</p> | <p>The advisory committee has revised items 6 and 7 in response to this comment, to read:</p> <p>“6. Petitioner or proposed [] successor conservator is the spouse of the (proposed) conservatee. <i>(If this statement is true you must answer a or b.)</i>”</p> <p>“7. Petitioner or proposed [] successor conservator is the domestic partner or the former domestic partner of the (proposed) conservatee. <i>(If this statement is true you must answer a or b.)</i>”</p> <p>The advisory committee disagrees with this recommendation. Because the allegations concerning dementia powers, unlike those concerning medical incapacity in item 9, are contained in a separate attachment (form GC-313), there is no need to restate them in the body of the petition. The reference to the attachment in item 1k is sufficient.</p> <p>The advisory committee disagrees</p> |

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| | | | | <p>the conservatee, “Is the conservatee non-English speaking? If so, what language does he or she speak?” Such a provision would assist the court when assigning court investigators and appointing counsel.</p> <p>Order Appointing Conservator</p> <p>Paragraph 5 and 22 (see suggestions for paragraphs 1g and 9b above): if the petition is changed, then this paragraph should reference prior adjudication re lacks medical capacity.</p> <p>Paragraph 8 (see suggestions re paragraph 5 above): if a prior adjudication re dementia orders continues until modified or revoked then an additional language to the effect should be added here.</p> <p>Paragraph 19 and 25: Add a paragraph when bond is waived pursuant to Probate Code 2323.</p> | <p>with this suggestion. There is no legal reason to require such an allegation in a conservatorship petition. However, in response to the commentator’s concern, the committee will propose a revision next year in the <i>Confidential Supplemental Information</i> statement (form GC-312) to add these allegations about the proposed conservatee.</p> <p>The advisory committee does not support this recommendation. Even when based on a prior order of incapacity, this order would be a new incapacity determination. Recitation of the evidence in support of the new order, whether a prior order, a new capacity declaration, or other evidence introduced at trial, is not required.</p> <p>The advisory committee disagrees with this recommendation for the reason stated immediately above.</p> <p>The advisory committee disagrees</p> |

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| | | | | <p>Paragraph 20: It would be helpful to add a provision when the County is to pay counsel's fee.</p> | <p>with this recommendation. The order never has included findings that show why no bond is required, because of compliance with section 2323 or any other reason. The order that no bond is required should be sufficient.</p> <p>The advisory committee disagrees with this suggestion. Some courts and counties require separate petitions with detailed factual showings and separate orders directing payment of fees by the county.</p> |
| 8. | Mr. Dean Zipser President Orange County Bar Association Irvine, California | A | Y | Agree with proposed changes. | No response necessary. |