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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 29, 2010

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Title	Agenda Item Type
Probate Conservatorships: Statement of Duties and Liabilities of Conservators	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Form GC-348	January 1, 2011
Recommended by	Date of Report
Probate and Mental Health Advisory Committee	September 25, 2010
Hon. Mitchell L. Beckloff, Chair	Contact
	Douglas C. Miller, Senior Attorney
	818-558-4178, <a href="mailto:douglas.miller@jud.ca.gov">douglas.miller@jud.ca.gov</a>

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### Executive Summary

The Probate and Mental Health Advisory Committee recommends revising the statement of duties and liabilities of the office of conservator that most newly appointed conservators must receive, sign, and file to qualify for their office. The *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348) would be completely revised to reflect substantial changes in the law affecting probate conservatorships and the duties and responsibilities of conservators made by legislation and changes in court rules and Judicial Council forms since the form was last revised.

### Recommendation

The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2011, revise the *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348) to reflect current law on the duties and responsibilities of probate conservators.

The revised form is attached at pages 8–14.

## Previous Council Action

In response to a statutory directive, the Judicial Council adopted form GC-348 effective January 1, 1992.<sup>1</sup> The council last revised the form in 2001, effective on January 1, 2002.<sup>2</sup>

## Rationale for Recommendation

Probate Code section 1834(a) requires newly appointed conservators (other than public conservators and trust companies) to file an acknowledgment of receipt of a statement of duties and liabilities of their office and the conservatorship information required by section 1835, before *Letters of Conservatorship* are issued.<sup>3</sup> The statement of duties and liabilities and the receipt became the *Duties of Conservator and Acknowledgment of Receipt of Handbook* (form GC-348).

The form is outdated and has become inaccurate and incomplete. It does not reflect substantial changes in conservatorship practice and procedure made by the Omnibus Conservatorship and Guardianship Reform Act of 2006 (Omnibus Act), cleanup legislation in 2007 and 2008,<sup>4</sup> and rules of court adopted in response to mandates contained in that legislation.<sup>5</sup>

The proposed revised form is seven pages long, an increase of three pages. The proposed changes from the existing form are discussed below.

## Overall structural changes to form GC-348

1. The text is restated in standard outline format (IA1), in Times New Roman 10-point font, a proportional font. This font is more readable than the 9-point Arial font used in the existing form and in early drafts of the revised form, yet does not increase the length of the revised version.

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<sup>1</sup> Probate Code section 1834(a), added by Stats. 1991, ch. 1019, § 1 (Sen. Bill 1022).

<sup>2</sup> The 2002 revision added item IV, “Duty to Disclose,” at page 3 of the existing form. This item describes the duty of a conservator who is married to the conservatee to disclose to the court that an action has been filed against the conservatee for dissolution or separate maintenance. This duty was imposed by Probate Code section 1813, as amended effective in 2001 (Assem. Bill 1491; Stats. 2000, ch. 17, § 4). See section 1813(b).

This item is item V on page 6 of the revised form, expanded to describe the similar duty of a conservatee’s former registered domestic partner to disclose that the partnership has been terminated, required by Probate Code section 1813.1, added effective in 2002 (AB 25; Stats. 2001, ch. 893, § 25). The revised item also advises conservators that if the conservatee’s spouse or partner is not a conservator, he or she must advise the conservator of the marital action or partnership termination. See paragraph 11 below.

<sup>3</sup> The conservatorship information required by section 1835 became the *Handbook for Conservators*, first published by the Judicial Council in 1992. The council published a second edition in 2002, which is now posted on the judicial branch’s public website at [www.courtinfo.ca.gov/reference/4\\_33prob\\_cons.htm](http://www.courtinfo.ca.gov/reference/4_33prob_cons.htm). A third edition is currently under development, with a year-end target completion date.

<sup>4</sup> The Omnibus Act consisted of Senate Bills 1116, 1550, and 1716; and Assembly Bill 1363 (Stats. 2006, chs. 490–493). The clean-up legislation was AB 1727 (Stats. 2007, ch. 553) and AB 1340 (Stats. 2008, ch. 293).

<sup>5</sup> See rules 7.575 (accounts of conservators and guardians), 7.1059 (standards of conduct of conservators of estates), and 7.1063 (changes in conservatees’ residence) of the California Rules of Court—all adopted in 2008.

2. The existing form's references to the role of the conservator's attorney, previously located throughout the form, are concentrated in a new item II on page 1, "Consult With Your Attorney," to place greater emphasis on the importance of frequent consultation with counsel.
3. Item IIIA on pages 1 and 2 of the revised form, "Determine the Appropriate Level of Care for the Conservatee," is new.

Item IIIA describes the requirements of Probate Code section 2352.5, added by the Omnibus Act.<sup>6</sup> These requirements include a written determination by the conservator of the conservatee's appropriate level of care that must be filed within 60 days of the court's order appointing the conservator. This determination must include a statement of the measures that would be necessary to keep the conservatee in his or her *personal residence* or either a plan to return the conservatee to that residence or an explanation of the impediments to that return.

The instructional note at the top of page 2 of the revised form provides the definition of a conservatee's "personal residence" contained in rule 7.1063(b) of the California Rules of Court. That rule concerns the pre- and post-move notices of changes in the conservatee's residence required by Probate Code section 2352 (see paragraph 4 below), but the conservatee's personal residence as that phrase is used in sections 2352 and 2352.5 must have the same meaning because the phrase was placed in both code sections at the same time and by the same statute. Neither code section defines the phrase; the rule of court provides the only currently available definition.

#### **Deciding where the conservatee will live**

4. Item IIIB on page 2 of the revised form expands the existing form's statement of the conservator's duty to decide where the conservatee is to live (item II2 on page 1 of the existing form).

The revised form states the applicable standard provided in Probate Code section 2352(b)—the least restrictive appropriate residence that is available and necessary to meet the conservatee's needs and that is in his or her best interests—more accurately than does the existing form (item IIIB1). The revised form also updates the information provided concerning the conservator's duty to advise the court of any move—filing the post-move notice, form GC-080—including the new responsibility to mail copies of that notice to the conservatee's attorney, spouse or registered domestic partner, and relatives who were given notice of the appointment petition (item IIIB2).

Items IIIB3 and 4 of the revised form provide information concerning changes in the conservatee's personal residence, including a discussion of the new duty to file and mail copies of the pre-move notice, form GC-079, 15 days before the proposed move (unless there is an emergency requiring less notice), to the conservatee, his or her attorney, and all other persons entitled to notice of the hearing on the appointment petition.

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<sup>6</sup> SB 1116 (Stats. 2006, ch. 490, § 2).

The existing form says that the conservator may not place the conservatee involuntarily in a mental health treatment facility “without permission of the court.” That incomplete and potentially misleading statement is replaced, in item IIIB6 on page 2 of the revised form, with a statement that no such placement can be made unless the conservatee has been determined to be gravely disabled and the conservator has been appointed under the Lanterman-Petris-Short Act,<sup>7</sup> and then only with permission of the court. The existing form’s reference to placement in a “secure facility” for dementia has also been modified to conform to the description of these facilities in Probate Code section 2356.5.

### **Conservatee’s medical care**

5. Item IIIC on page 3 of the revised form, concerning provision of medical care to the conservatee, replaces item II3 of the existing form.

The existing form advises that if the conservator is given authority to consent to administration of dementia medications, he or she must be sure that other, less intrusive treatment options are “first explored.” There is no such requirement in Probate Code section 2356.5. The statement has been eliminated and replaced with a statement that if the conservatee has dementia, specific authority from the court to consent to administration of medications for its treatment is necessary, and if such authority is given, the conservator should be sure that the medications are appropriate. The material in item IIIC is restated in two paragraphs, the first dealing with exclusive authority to consent to medical treatment generally and the second with dementia medications specifically.

The existing form states that a conservator cannot give or withhold consent to medical treatment if the conservatee does not agree unless the conservator has been granted exclusive consent authority. This statement is not accurate: the conservator may give or withhold consent to treatment, but his or her decision in the face of the conservatee’s disagreement will not be enough to authorize or decline the treatment. Item IIIC1 of the revised form advises that unless the court has granted exclusive consent authority, the conservator’s consent or refusal to consent to medical treatment is not sufficient if the conservatee disagrees (except in certain emergency situations). See Probate Code section 2354(a).

### **Managing the conservatee’s estate and working with others responsible for this property**

6. Advice to work with the conservator of the conservatee’s estate is expanded to include others responsible for managing the conservatee’s property, including the trustee of any trust created for the management of the conservatee’s property and for his or her support, and the conservatee’s spouse or registered domestic partner in possession of the couple’s community property (item IIID on page 3 of the revised form, item II4 on page 2 of the existing form).
7. The general statement of estate conservator responsibilities in item III on page 2 of the existing form (item IV on page 3 of the revised form) is rewritten for clarity and also to

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<sup>7</sup> Welf. & Inst. Code, § 5000 et seq. The conservatorship provisions of the Lanterman-Petris-Short Act commence at section 5350.

advise that property in a trust is not part of the conservatee’s estate and community property under the control of the conservatee’s spouse or registered domestic partner is part of the estate only if and to the extent the spouse or partner consents. (See Prob. Code, § 3051(b), (c).)

8. Items III1 and III3 on pages 2 and 3 of the existing form are combined into a greatly enlarged item IVA, “Managing the Estate,” beginning at page 3 of the revised form. The revised item is expanded from five to 16 paragraphs.

Item IVA is based on the detailed statement of the conservator’s estate management responsibilities in rule 7.1059(b) of the California Rules of Court, adopted in 2008, and the statutory authority for that rule, Probate Code section 2410, added by the Omnibus Act.<sup>8</sup> Items IVA5 and 6, concerning the prosecution of claims held by the estate or the defense of claims against it, include advice that the court may require the conservator to be represented by counsel. This advice is based on appellate court decisions affecting fiduciaries, including conservators.<sup>9</sup>

### **Estate inventory process**

9. Item IVB at page 5 of the revised form, concerning the estate inventory process, expands the discussion of that process in item III2 on page 2 of the existing form.

The revised item discusses the new requirement, contained in Probate Code section 2610(a), that copies of the completed inventory and appraisal must be served on the conservatee, his or her attorney, spouse or registered domestic partner, and first degree relatives (parents and children), together with notice of their right to object to the inventory (and advises that there is a Judicial Council form for this notice, form GC-042).

### **Miscellaneous additions and changes**

10. Item IVC at pages 5 and 6 of the revised form updates and expands the explanation of the record-keeping and accounting requirements and the procedure for court approval of conservators’ accountings. Item IVC1 advises that there are now court forms that may, or in some cases must, be used for accountings.<sup>10</sup>

11. Item V, at page 6 of the revised form (item IV at page 3 of the existing form) is retitled “Duty to Disclose Changes in Marital or Domestic Partnership Status,” and the text is modified to refer to the duty of the conservatee’s former registered domestic partner to disclose to the court (if he or she is a conservator) that the domestic partnership has been terminated. The revised item also advises conservators that they are entitled to receive

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<sup>8</sup> AB 1363; Stats. 2006, ch. 493, § 22.

<sup>9</sup> See *City of Downey v. Johnson* (1968) 263 Cal.App.2d 775 (conservator of the estate and, later, executor of the will of the deceased former conservatee may not appear without counsel in civil action brought by city against the conservatee/decedent).

<sup>10</sup> The accounting forms are the schedules for the standard and simplified accountings required by Probate Code section 2620(a) and described in Cal. Rules of Court, rule 7.575—the form GC 400 series (standard accounting) and GC-405 series (simplified accounting), adopted or approved in 2008.

disclosures concerning changes in marital or partnership status from conservatees' spouses or former registered domestic partners who are not conservators. (Prob. Code, §§ 1813, 1813.1.)

12. Item VI, "Limited Conservator," at page 6 of the revised form, is modified from item V at page 3 of the existing form to add advice that certain limited conservatorships are exempted from the level-of-care determination required by Probate Code section 2352.5. (See Prob. Code, § 2352.5(e).)
13. A new item VIII, "Judicial Council forms," has been added at page 7 of the revised form. The item gives general advice about Judicial Council conservatorship forms, their posting on the California courts' public website, and instructions on how to access and prepare them.
14. The full name of the form is changed to *Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators* (emphasis added).

### **Comments, Alternatives Considered, and Policy Implications**

This proposal was circulated for comment as part of the spring 2010 invitation to comment cycle. Eight comments were received. Seven approved the proposal and one, the comment of the Superior Court of Sacramento County, expressed neither approval nor disapproval. However, that comment pointed out a typographical error, in the form of duplicate entries of a paragraph describing a responsibility of an estate conservator in item IVA on page 4 of the revised form. This error has been corrected.

Two commentators, the Orange County Bar Association and the Superior Court of Los Angeles County, approved the proposal but recommended changes. The bar association recommended that a statement about optional Judicial Council forms in item VIII of the revised form be modified to include an assertion that the option to use or not use these forms should rest not only with the filing party, but also with the court, by local rule. This recommendation was not accepted by the advisory committee because it is inconsistent with rule 1.35 of the California Rules of Court, which defines optional forms. That rule provides that optional forms may be used by parties and must be accepted for filing by all courts; the rule provides no option for a court to elect to require or dispense with the use of an optional form. The statement in form GC-348 says that the option to use an optional form does sometimes rest with the court. However, a California Rule of Court, not a local rule, would be required to modify the effect of rule 1.35.<sup>11</sup>

The comments of the Superior Court of Los Angeles County were extensive and addressed a number of issues. The court expressed the view that the revised form is too long and contains too

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<sup>11</sup> Rule 7.575, concerning accountings filed by conservators and guardians, is an example of a California Rule of Court that creates an exception to rule 1.35 by requiring the use of optional forms in some situations. Rule 7.575(e)(1) requires conservators or guardians that file simplified accountings (defined in rule 7.575(a)), to use certain forms for accounting schedules although they are optional forms. Another proposal from this advisory committee on today's agenda includes the adoption of a rule of court that would expressly modify rule 1.35 to permit a court to determine, by local rule, whether to use or dispense with specific optional forms. (See this committee's proposal to revise the *Order Appointing Court Investigator* (form GC-330).)

much information and, at the same time, requested a lengthier explanation of the requirements for a conservator to be given exclusive authority to consent to the conservatee's medical treatment, including mention of the requirement that a conservator with this authority must consult with an accredited practitioner of a religion that relies on prayer alone for medical treatment if, before the appointment of a conservator, the conservatee was an adherent of that religion. (See Prob. Code, § 2355.) The committee believes that the form's mention of the court's authority to grant exclusive authority to consent to the conservatee's medical treatment in item IIIC on page 3 is sufficient to advise a new conservator that he or she must apply to the court for this authority if the conservatee lacks capacity to give informed consent to medical treatment, and that mention of the special rule governing adherents of certain religions is not necessary in this general instructional form because the rule applies to a relatively few number of conservatees.

The court also commented that the 9-point Arial font used in the form circulated for public comment was too difficult to read. In response, the committee increased the size of the font to 10 points and changed the font to Times New Roman. The court suggested that the form was intended as a replacement for the *Handbook for Conservators* and requested that a new edition of the handbook be made a priority. The committee responded by advising that a new edition of the handbook is under development, with a year-end completion target date. The court made other comments concerning specific items. The committee declined to make further changes in response to these comments; the committee's responses to the comments are shown in the comment chart attached at pages 15–19.

The committee made one additional change on its own initiative after the close of the comment period, but not in response to a comment. A new item II, "Consult With Your Attorney," was placed on page 1 of the revised form. This item concentrates in one place advice to new conservators concerning consultation with their attorneys. This advice is scattered throughout the existing form (see items I, II5, and III5 of that form). This change was made to give greater emphasis to the importance of frequent consultation with counsel by placing the advice in a prominent place near the beginning of the form.

### **Implementation Requirements, Costs, and Operational Impacts**

This proposal will incur the costs associated with the revision and distribution of any Judicial Council form. However, if the form is to accurately and fully give the advice required by statute for new conservators, the changes are necessary.

### **Attachments**

1. Revised form GC-348, at pages 8–14
2. Chart of comments, at pages 15–19
3. Attachment A: Existing form GC-348



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):   TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b>  STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): _____ CONSERVATEE	
<b>DUTIES OF CONSERVATOR and Acknowledgment of Receipt of Handbook for Conservators</b>	CASE NUMBER: _____

**DUTIES OF CONSERVATOR**

When you are appointed by the court as a conservator, you become responsible to the court and assume certain duties and obligations. All of your actions as conservator are subject to review by the court. You should clearly understand the information on this form. You will find additional information in the Judicial Council's *Handbook for Conservators*, receipt of which, in addition to a copy of this form, you are required by law to acknowledge.

**I. THE CONSERVATEE'S RIGHTS**

Conservatees do not lose all rights or all voice in important decisions affecting their lives. All conservatees have the right to be treated with understanding and respect, the right to have their wishes considered, and the right to be well cared for by their conservators. Conservatees generally keep the right to (1) control their own wages or salary from employment, (2) make or change a will, (3) marry, (4) receive personal mail, (5) be represented by a lawyer, (6) ask a judge to change conservators, (7) ask a judge to end the conservatorship, (8) vote, unless a judge decides they are not capable of exercising this right, (9) control personal spending money if a judge has authorized an allowance, and (10) make their own medical decisions, unless a judge has taken away that right and given it exclusively to their conservators.

**II. CONSULT WITH YOUR ATTORNEY**

Your attorney will advise you on your duties, the limits of your authority, the conservatee's rights, your dealings with the court, all other topics discussed in this form, and many other matters. He or she will tell you when you must ask for prior court approval to take an action, when you may do so (and why it might be a good idea), and when prior court approval is not required. All legal questions should be discussed with your attorney, not the court staff, which is not permitted to give legal advice. Your attorney will also help prepare your inventories, accountings, petitions, and all other documents to be filed with the court; and will see that the persons entitled to be notified of your actions are given proper notice. He or she will also advise you about legal limits on estate investments, leases and sales of estate assets, loans, lawsuits against others involving the conservatee or his or her property, and many other matters, and can prepare or review documents needed in these matters. You should communicate frequently and cooperate fully with your attorney at all times. **When in doubt, contact your attorney.** Other questions may be answered by calling on local community resources. (To find these resources, see the *Handbook for Conservators* and the local supplement distributed by the court.)

**III. CONSERVATOR OF THE PERSON**

If the court appoints you as conservator of the person, you are responsible for the conservatee's care and protection. You must decide, within certain limits, where the conservatee will live; and you must arrange for the conservatee's health care, meals, clothing, personal care, housekeeping, transportation, and recreation.

**A. DETERMINE THE APPROPRIATE LEVEL OF CARE FOR THE CONSERVATEE**

You must determine the conservatee's appropriate level of care. Your determination must be in writing, signed under penalty of perjury, must be filed with the court within 60 days of the date of the court's order appointing you as conservator, and must include:

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

**III. A. 1.** An evaluation of the level of care existing when the petition for your appointment as a conservator was filed and the measures that would be necessary to keep the conservatee in his or her **personal residence**.

(Note: The conservatee's **personal residence** is the residence the conservatee understood or believed to be his or her permanent residence on (1) the date the petition for appointment of a conservator was filed in this matter, or (2) on the last earlier date the conservatee could form or communicate an understanding or belief about a permanent residence, whether or not he or she was living there when the appointment petition was filed. See Cal. Rules of Court, rule 7.1063(b).)

2. A plan to return the conservatee to his or her **personal residence** or an explanation of the limitations or restrictions on a return of the conservatee to that residence in the foreseeable future if the conservatee was not living there when the petition for appointment of a conservator was filed.
3. A reevaluation after a material (important) change in circumstances affecting the conservatee's needs for placement and care after your initial determination.
4. If the conservatee is a limited conservatee who is developmentally disabled, special rules may apply to the determination of his or her level of care and residential placement. See item **VI** below.

### **B. DECIDE WHERE THE CONSERVATEE WILL LIVE**

1. You must decide where the conservatee will live. You may choose a residence in California without prior approval of the court, but you must choose the least restrictive appropriate residence that is available and necessary to meet the conservatee's needs and that is in his or her best interests.
2. You must file a written notice of any change of the conservatee's residence with the court within 30 days of the move, and you must mail copies of the notice to the conservatee's attorney, the conservatee's spouse or registered domestic partner, and the conservatee's relatives who were mailed copies of the petition for your appointment as conservator, unless the court excuses you from the mailing to prevent harm to the conservatee. (There is a court form you must use for this notice and another form you may use to prove that you have mailed it. The forms are the *Post-Move Notice of Change of Residence of Conservatee or Ward* (form GC-080) and the *Attachment to Post-Move Notice, etc.* (form GC-080(MA)). These forms refer to a "post-move notice" because the notice may be filed and mailed after the date of the move.)
3. The law presumes that the conservatee's **personal residence** (see item **IIIA**) is the conservatee's least restrictive appropriate residence. There must be a reason supported by sufficient evidence to justify a change of residence from the conservatee's personal residence (including a move from a care facility or other temporary placement to a residence that is not the conservatee's personal residence).
4. If you want to move the conservatee from his or her **personal residence**, in addition to the post-move notice described in item 2, you must mail a notice of your intent to change the conservatee's residence to the conservatee, the conservatee's attorney, if any, and to each other person or entity entitled to notice of the hearing on the petition for your appointment as conservator; and then you must file with the court proof that the notice was mailed. Unless there is an emergency requiring a shorter period of notice, this notice must be mailed at least 15 days before the date of the proposed move. (There is a court form you must use for this notice and another form you may use to prove that you have mailed it. The forms are the *Pre-Move Notice of Proposed Change of Personal Residence of Conservatee or Ward* (form GC-079) and the *Attachment to Pre-Move Notice, etc.* (form GC-079(MA)). These forms refer to a "pre-move notice" because the notice must be mailed before the move.)
5. If you want to establish the conservatee's residence outside California, you must petition the court for permission before the move. Notice of the court hearing on this petition, together with a copy of the petition, must be mailed to the conservatee and the other persons and entities that were entitled to notice of the hearing on the petition for your appointment as conservator. There is a court form for this petition, the *Petition to Fix Residence Outside the State of California* (form GC-085). Notice of the hearing and proof of its mailing is given on another court form, the *Notice of Hearing—Guardianship or Conservatorship* (form GC-020).
6. You may not place the conservatee involuntarily in a mental health treatment facility unless he or she has been determined to be gravely disabled as the result of a mental disorder or impairment by chronic alcoholism, you have been appointed as conservator under the Lanterman-Petris-Short Act (Welf. & Inst. Code, § 5350 et seq.), and then only if the court has authorized the placement. If the court has authorized you to place the conservatee in a secured-perimeter residential care facility or a locked and secured nursing facility because he or she suffers from dementia, you must be sure that the placement is the least restrictive placement appropriate to the conservatee's needs.

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

### III. C. PROVIDE MEDICAL CARE FOR THE CONSERVATEE

You are responsible for making sure that the conservatee's health care needs are met. But there are special rules you must follow to meet these needs. Two of the most important rules are as follows:

1. Unless the court has given you exclusive authority to consent to the conservatee's medical treatment because the court has determined that the conservatee has lost the capacity to make sound medical decisions, your consent or refusal to consent to such treatment is not sufficient if the conservatee disagrees (except in certain emergency situations). If you do have exclusive medical consent authority, you should be sure that all medical treatment and medications are appropriate.
2. If the conservatee has dementia and has lost the capacity to give an informed consent to the administration of medications for its treatment and care, you must be given specific authority by the court to consent to the administration of these medications. If you do have this authority, you should be sure that the medications are appropriate.

### D. WORK WITH THE PERSON(S) RESPONSIBLE FOR MANAGING THE CONSERVATEE'S PROPERTY

If other persons are handling the conservatee's property, such as his or her estate conservator, the conservatee's spouse or registered domestic partner in possession of the couple's marital or partnership property, or the trustee of a trust created for the management of the conservatee's property and for his or her support, you must work together to be sure that the conservatee can afford the care you arrange. Purchases you make for the conservatee must be approved by the person(s) responsible for managing the conservatee's assets or you may not be reimbursed or your reimbursement may be delayed.

## IV. CONSERVATOR OF THE ESTATE

The conservatee's property or assets and income are known as the conservatee's "estate." If the court appoints you as conservator of the estate, you will manage the conservatee's finances, protect the conservatee's income and property or assets, make an inventory of the conservatee's property or assets, make sure the conservatee's bills are paid, invest the conservatee's money, see that the conservatee receives all the income and benefits to which he or she is entitled, ensure that the conservatee's tax returns are filed on time and all taxes paid, keep accurate financial records, and regularly report the conservatee's financial condition to the court. *(Note: Property or assets and income in a trust for the conservatee's support and maintenance are usually not considered as part of the conservatee's estate, particularly if the trust was created and funded before the appointment of a conservator. Unless the conservatee's spouse or registered domestic partner consents to its inclusion in the conservatee's estate, the community property of the conservatee and his or her spouse or registered domestic partner under the management and control of the spouse or partner is also not part of the conservatee's estate.)*

### A. MANAGING THE ESTATE

#### 1. Prudent management for the benefit of the conservatee; prudent investments

You must manage the estate's property or assets and income for the benefit of the conservatee and with the care of a prudent person dealing with someone else's property. You must not make unreasonably risky investments of money or property of the estate.

#### 2. Prior court approval required for fees, borrowing, loans, and gifts

You must ask and receive the court's permission, after full disclosure of all relevant facts, before you may pay from the conservatee's estate fees to yourself for your services as conservator and to your attorney for his or her services to you; borrow money for or loan money from the conservatee's estate (to yourself or anyone else); or make gifts of estate assets or property.

#### 3. Keep estate money and property separate from your or anyone else's money or property

You must keep the money and property of the conservatee's estate separate from your money or property or from the money or property of any other person. Never deposit estate funds in your personal bank account or otherwise mix them with your or anyone else's funds, even for brief periods. Title to individual stocks, bonds, or other securities; securities broker accounts; mutual funds; and accounts with banks and other financial institutions must show that these assets are property of the conservatorship estate and not your or anyone else's property.

#### 4. Interest-bearing accounts and other investments

Except for a checking account intended for payment of ordinary expenses, estate bank accounts must earn interest. You may deposit estate funds in one or more insured accounts in financial institutions, but you should not put more than the FDIC insurance limit, currently \$250,000, in any single institution. You have authority to make some investments without court approval. Other investments may be made only after court approval has been obtained. Consult with an attorney before making any investments, even those you have authority to make without court approval.

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

#### IV. A. 5. Claims against others on behalf of the conservatee

Pursue claims against others on behalf of the conservatee's estate when it is in the best interests of the conservatee or his or her estate to do so. The court may require you to be represented by a lawyer to proceed with litigation on behalf of the conservatee's estate. Consider requesting prior court authority to pursue or compromise large or complex claims, particularly those that might require litigation and the assistance of legal counsel and those that might result in an award of attorney fees for the other party against the conservatee's estate if you are unsuccessful. You may sign a contingent fee agreement with legal counsel on behalf of the conservatee's estate if such agreements are customary for the type of case involved, but the court must approve the agreement before it is enforceable. You may ask for court approval of a contingent fee agreement before signing it and before legal counsel performs any services under it.

#### 6. Defend against claims against the conservatee's estate

Defend against actions or claims against the conservatee or his or her estate when it is in the best interest of the conservatee or the estate to do so. The court may require you to be represented by a lawyer for your defense of a lawsuit against the conservatee's estate. You may request court approval or instructions concerning the defense or compromise of such a lawsuit.

#### 7. Public and insurance benefits

You must learn about and collect all public and insurance benefits for which the conservatee is eligible.

#### 8. Evaluate the conservatee's ability to manage cash and other assets

You should evaluate the conservatee's ability to manage cash or other assets and take appropriate action, including asking for prior court approval when necessary or appropriate, to enable the conservatee to do so to the level of his or her ability.

#### 9. Locate the conservatee's estate planning documents

You should undertake, as soon as possible after your appointment and qualification as conservator, to locate and take reasonable steps to ensure the safety of the conservatee's estate planning documents, including wills and codicils, living trusts, powers of attorney for health care and finances, life insurance policies, and pension records.

#### 10. Preserve property mentioned in the conservatee's estate planning documents

Make reasonable efforts to identify, locate, and preserve property mentioned in the conservatee's estate planning documents.

#### 11. Guard against inappropriate disclosure of the conservatee's financial information

Subject to your duty of full disclosure to the court and persons entitled under the law to receive it, you must closely guard against unnecessary or inappropriate disclosure of the conservatee's financial information.

#### 12. Conservatee's tangible personal property

If you plan to dispose of any of the conservatee's tangible personal property, inform the conservatee's family members in advance and give them an opportunity to acquire the property, with approval or confirmation of the court.

#### 13. Factors to consider when deciding whether to dispose of any of the conservatee's property

In deciding whether it is in the best interest of the conservatee to dispose of property of his or her estate, consider the following factors, among others, as appropriate in the circumstances:

- (A) The likely benefit or improvement of the conservatee's life that disposing of the property would bring;
- (B) The likelihood that the conservatee would need or benefit from the property in the future;
- (C) The previously expressed or current desires of the conservatee concerning the property, unless accommodating those desires would violate your fiduciary duty to the conservatee or impose an unreasonable expense on the estate;
- (D) The provisions of the conservatee's estate plan concerning the property;
- (E) The tax consequences of disposing of the property;
- (F) The impact of disposition on the conservatee's eligibility for public benefits;
- (G) The condition of the entire estate;
- (H) The likelihood that the property will deteriorate or be subject to waste if kept in the estate; and
- (I) The benefit versus the cost or liability of maintaining the property in the estate.

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

#### IV. A. 14. Property, casualty, and liability insurance

Determine the appropriate kinds and adequate levels of property, casualty, and liability insurance covering the property, assets, risks, and potential liabilities of the conservatee and his or her estate. Maintain the insurance in force during the entire period of the administration (except for assets after they are sold).

#### 15. Communicate with conservator of the person and trustee

You should communicate as necessary and appropriate with the conservator of the conservatee's person, if any, and with the trustee of any trust of which the conservatee is a beneficiary.

#### 16. Other limitations or restrictions

There are many limitations or restrictions on your authority to deal with estate assets not mentioned here. If you do not obtain the court's permission when it is required before taking an action, you may be removed as conservator or you may be required to reimburse the estate from your own personal funds, or both.

### B. INVENTORY OF ESTATE PROPERTY

#### 1. Locate and take possession of the estate's property and prepare an inventory

You must identify, locate, take possession of, and protect all the conservatee's property, assets, and income that will be or become part of the conservatorship estate. You must change the record title or ownership of most property and assets of the estate to reflect the conservatorship. You must record a copy of your *Letters of Conservatorship* (form GC-350) with the county recorder in each county where the conservatee owns real property. You must then prepare an inventory, or a list, of all of the real and personal property of the estate. There are court forms that must be used for the inventory. These consist of a two-page cover sheet, *Inventory and Appraisal* (form DE-160/GC-040) and one or more pages to be attached to the cover sheet containing the list of property, *Inventory and Appraisal Attachment* (form DE-161/GC-041). The property is separated into two categories, cash and cash-equivalent items, listed on Attachment 1; and all other types of real and personal property, listed on Attachment 2.

#### 2. Determine the value of the estate's property

You must arrange to have a **probate referee** appointed by the court appraise, or determine the fair market value of, the noncash property of the estate shown in Attachment 2 of your inventory unless the referee's appointment is waived by the court. You, rather than the referee, may appraise the value of the cash and cash-equivalent items of property listed in Attachment 1, such as bank accounts.

#### 3. File and mail copies of the inventory and appraisal and notice of how to object

Within 90 days after your appointment as conservator, unless the court gives you more time, you must file with the court your inventory containing the appraisals of estate property, signed by you and, if the probate referee has appraised assets, by the referee. You must also mail copies of the completed inventory and appraisal to the conservatee, the conservatee's attorney, if any, and the conservatee's spouse or registered domestic partner, parents, and children, and must give them written notice of how to file an objection to the inventory and appraisal. There is a court form that must be used for this notice, the *Notice of Filing of Inventory and Appraisal and How to Object to the Inventory or the Appraised Value of Property* (form GC-042).

### C. RECORD KEEPING AND ACCOUNTING

#### 1. Keep records and prepare accountings

You must keep complete and accurate records of each financial transaction affecting the estate, including all receipts of income, changes in assets or property held in the estate, and expenditures. The checkbook for the conservatorship checking account is your indispensable tool for keeping records of income and expenditures. You should also save original bills or invoices paid, records of property sale transactions, receipts for money spent, and bank or other institutions' statements showing income received and money spent. You must prepare periodic accountings of all money and property you have received, what you have spent, the date of each transaction, and its purpose. Your accountings must describe in detail what you have left after you pay the estate's expenses. There are court forms you may, or in some situations must, use for your accountings. You will have to file original statements from banks and other institutions with your accountings.

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

#### IV. C. 2. Court review of your accountings and records

You must file with the court a report with each of your accountings that shows the current circumstances of the conservatee and the estate, along with a petition requesting that the court review and approve the accounting. Your first accounting is due one year after your appointment, and later accountings must be filed at least every two years after that. The court may order you to file more frequent accountings. You must save your receipts and other original records because the court may ask to review them. If you do not file your accountings as required, the court will order you to do so. You may be removed as conservator if you fail to properly prepare and file your accountings or comply with the court's orders.

#### V. DUTY TO DISCLOSE CHANGES IN MARITAL OR DOMESTIC PARTNERSHIP STATUS

If you are the spouse of the conservatee, you must disclose to the court, and give notice to interested persons under the Probate Code, of the filing of any action or proceeding against the conservatee for (1) legal separation, (2) dissolution of marriage, or (3) adjudication of nullity of the marriage. If you are or were the registered domestic partner of the conservatee, you must disclose to the court any termination of the domestic partnership. The disclosure must be made within 10 days of the initial filing of the action or proceeding or termination of the partnership by filing a notice with the court. If you are not the spouse or registered domestic partner or former partner of the conservatee and one of these events occurs, the conservatee's spouse or former registered domestic partner must disclose the event to you within the same 10-day period.

#### VI. LIMITED CONSERVATOR (for the developmentally disabled only)

##### A. AUTHORITY SPECIFIED IN YOUR *LETTERS OF CONSERVATORSHIP* AND APPOINTMENT ORDER

If the court appoints you as limited conservator, you will have authority to take care of **only** those aspects of the conservatee's life and financial affairs specified in your *Letters of Conservatorship* and the court's order appointing you. The conservatee retains all other legal and civil rights. Although most of the information provided in this form also applies to limited conservatorships (especially the duties of the conservator of the person), you should clarify with your attorney exactly which information applies in your case.

##### B. DUTY TO HELP LIMITED CONSERVATEE DEVELOP SELF-RELIANCE

You must secure treatment, services, and opportunities that will assist the limited conservatee to develop maximum self-reliance and independence. This assistance may include training, education, medical and psychological services, social opportunities, vocational opportunities, and other appropriate help.

##### C. DETERMINATION OF LEVEL OF CARE FOR CERTAIN LIMITED CONSERVATEES

The level of care determination described in item **IIIA** does not apply to a limited conservatee who receives services from a regional center for the developmentally disabled and for whom the Director of Developmental Services or the regional center is acting as conservator. Determination of the services provided for and residential placement of these limited conservatees are to be identified, delivered, and evaluated consistent with the individual program plan process described in Welfare and Institutions Code sections 4640–4659. (*See Prob. Code, § 2352.5(e).*)

#### VII. TEMPORARY CONSERVATOR

If the court appoints you as temporary conservator, you will generally have the same duties and authority as general conservators, **except** the conservatorship will end on the date specified in your *Letters of Temporary Conservatorship*. Most of the information in this form also applies to temporary conservatorships, but you must consult your attorney about which duties you will **not** perform because of the short duration of the temporary conservatorship appointment. A temporary conservator should avoid making long-term decisions or changes that could safely wait until a general conservator is appointed. As temporary conservator, you may not move a conservatee from his or her home, unless there is an emergency, or sell or give away the conservatee's home or any other assets without prior court approval.

**Sign the *Acknowledgment of Receipt* on page 7.**

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

### VIII. JUDICIAL COUNCIL FORMS

This form identifies a number of Judicial Council forms used for court filings in conservatorship proceedings. This form, the petition for your appointment as conservator, and the order that appoints you as conservator are examples of Judicial Council forms. Judicial Council forms are either mandatory or optional. If a mandatory form applies to a situation or proposed action, it must be used. Optional forms may be used, at the option of the person preparing and filing the form or, in some situations, at the option of the court. Each form is identified on the bottom left side of its first page as optional or mandatory. Judicial Council forms are not available for every situation where a document may or must be filed with the court, but the forms address the most common and important matters that occur during a conservatorship. The *Handbook for Conservators* has additional information about Judicial Council conservatorship forms.

Your attorney will select and prepare the appropriate Judicial Council forms. However, if you do not have an attorney, you can prepare them yourself. All Judicial Council forms are posted on the California courts' public website, [www.courts.ca.gov](http://www.courts.ca.gov). Select "Forms" at the top of the site's home page, then select the form group in the drop-down menu in the middle of the page. All conservatorship forms are collected in the Probate—Guardianships and Conservatorships form group. They are designated with the prefix "GC," followed by a three-digit number. Forms shown in the drop-down list with an asterisk are mandatory forms.

The forms are posted on the website in both unfillable and fillable versions, as PDF files. The unfillable versions are designed to be completed by typewriter or, in some cases, by hand. Fillable forms may be filled out online, then printed out ready for signing and filing with the court, and they may also be saved to your computer and completed in more than one sitting. Go to the "Forms and Information" page at the Web site's Self-Help Center for more information on accessing the forms.

### ACKNOWLEDGMENT OF RECEIPT of *Duties of Conservator and Handbook for Conservators* (Probate Code, § 1834)

I acknowledge that I have received this statement of the duties and liabilities of the office of conservator, the *Duties of Conservator* (form GC-348), and the *Handbook for Conservators* adopted by the Judicial Council.

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 (PROPOSED) CONSERVATOR)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF (PROPOSED) CONSERVATOR)

Date:

\_\_\_\_\_  
(TYPE OR PRINT NAME)

▶ \_\_\_\_\_  
(SIGNATURE OF (PROPOSED) CONSERVATOR)

### NOTICE

**This statement of duties and liabilities is a summary and is not a complete statement of the law. Your conduct as a conservator is governed by the law itself and not by this summary or by the Judicial Council's *Handbook for Conservators*. When in doubt, consult your attorney.**



## SPR10-41

### Probate: Statement of Duties and Responsibilities of Conservators (revise form GC-348)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Orange County Bar Association by Lei Lei Wang Ekvall, President, Newport Beach	AM	Under Item VIII of the proposed revised Duties and Liabilities form, the fourth sentence should be modified to read as follows: “Optional forms may be used, at the option of the person preparing and filing the form <i>or as provided by local court rule.</i> ”	This comment goes beyond the scope of the current proposal, which is to revise the form describing the duties of conservators. The recommendation is, in effect, a proposal to modify rule 1.35 of the California Rules of Court, which defines optional forms. Rule 1.35 does not authorize a local rule to affect the permissible use of an optional Judicial Council form. The only exceptions to the authority to use optional forms granted in rule 1.35 are provided in other California Rules of Court, not local rules.
2.	Hon. Mary Fingle Schulte Supervising Judge, Probate/MH Department Superior Court, County of Orange	A	No specific comment.	No response necessary.
3.	Superior Court, County of Los Angeles	AM	Since this form explains the duties and responsibilities of conservators, is it appropriate to explain their obligation to pay for investigative fees when applicable? If not, proposed changes are agreed upon.  If the goal of the form is to be helpful, it falls short. The proposed <i>Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators</i> (form GC-348) is too lengthy and	The cost of initial and review investigations and reports are to be borne by the conservatee or his or her estate, not the conservator, subject to the court’s discretion to waive all or part of the cost if payment would impose a hardship on the conservatee or his or her estate (Prob. Code, § 1851.5). The committee does not believe this fact is so critical to the conservator’s immediate understanding of his or her duties that it should be included in this informational form.

**SPR10-41**

**Probate: Statement of Duties and Responsibilities of Conservators** (revise form GC-348)

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

	Commentator	Position	Comment	Committee Response
			<p>contains too much information. Also, the 9-point font is difficult to read.</p> <p>The form appears to be an attempt to replace the Handbook for Conservators (pending its revision). However, the information contained in the proposed (revised) form is often incomplete and may be misleading. For example:</p> <p>Part III Conservator of the Person statements are broader than the provisions of the Probate Code (beginning at section 2350) concerning conservators of the person.</p> <p>Perhaps, that paragraph should merely state, “If the court appoints you as conservator of the person, you are responsible for the conservatee’s care and protection as more particularly set forth in the Order Appointing Conservator.”</p> <p>Section IIIC—Does not include requirements of Probate Code section 2355 when a conservator</p>	<p>The committee has changed the text of the form from nine-point Arial to 10-point Times New Roman, a more readable proportional font, without increasing the form’s length.</p> <p>The <i>Handbook for Conservators</i> is in revision, with a year-end planned release date.</p> <p>The committee believes that the statements contained in Part III of form GC-348, particularly the requirements for determining the level of care for the conservatee, items IIIA1–3, and items IIIB 2–4, are accurate statements of the new requirements of Probate Code sections 2352 and 2352.5 and Cal. Rules of Court, rule 7.1063. The committee also believes that items IIIA5–6 of the form are updated and more accurate statements of existing law than the equivalent text of the current form.</p> <p>The recommended language would not apply to most conservatorships, particularly general conservatorships, because the order appointing the conservator does not contain a detailed list of powers given to the conservator.</p> <p>The form does not specify the details of section 2355 concerning exclusive authority to consent</p>

**SPR10-41**

**Probate: Statement of Duties and Responsibilities of Conservators** (revise form GC-348)

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

	Commentator	Position	Comment	Committee Response
			<p>is making health care decisions for a conservatee adjudicated to lack capacity to make health care decisions.</p> <p>Section IIIC—The form does not address situations concerning conservatees who are adherents of religion whose tenets and practices rely on prayer alone for healing and requiring that treatment shall be by accredited practitioners of those religions.</p> <p>Section IVA2—When a conservator of the estate is authorized to borrow under a Probate Code section 2591 power, a court authorizing borrowing is not necessary.</p>	<p>to medical treatment, but item IIIC does refer to the fact that the court may grant the conservator exclusive authority to consent to the conservatee’s medical treatment. That statement should be sufficient to alert the conservator to the need to request exclusive medical consent authority in an appropriate case.</p> <p>In the committee’s view, the provisions of Probate Code section 2355(b), concerning treatment by a practitioner of the conservatee’s religion when that religion calls for reliance on prayer alone for medical treatment, affect a relatively few number of conservatorships, and therefore a reference to this provision in this form is not necessary. Professional fiduciaries know of this provision, and family-member conservators with personal knowledge of the conservatee’s life and circumstances are likely also to be familiar with his or her religious preferences. They are also more likely than the general public to know how those preferences may affect the conservatee’s preferred form of medical care.</p> <p>This statement is correct, but a section 2591 power to borrow must also be granted by the court in advance of any borrowing. In effect, the statement that prior court permission is necessary for the conservator to borrow remains true.</p>

**SPR10-41****Probate: Statement of Duties and Responsibilities of Conservators** (revise form GC-348)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			Section IVA8 and 11 appear to be duplicates.  Priority should be given to updating the <i>Handbook for Conservators</i> . This form should contain only generalized information with references to the Handbook for detailed information.	Noted and corrected, with the committee's thanks.  The <i>Handbook for Conservators</i> is currently being revised. The revision is expected to be completed by the end of 2010.
4.	Superior Court, County of Orange by Mary Malk Manager, Probate/Mental Health Department	A	No specific comment.	No response necessary.
5.	Superior Court, County of Sacramento by Robert Turner ASO II, Finance Division	NI	On page 8, section IVA 8 and 11 are a duplication.	Noted and corrected, with the committee's thanks.
6.	Superior Court, County of San Bernardino by Debra Meyers Deputy Court Executive Officer/General Counsel	A	The information is current; however, the form does not establish the duties have been read or understood. It also carefully points out there are other duties that are not described.	There is no express requirement in the authorizing statute, Probate Code section 1834(a), that the conservator must read and understand the statement of duties and liabilities he or she has received or sign a statement to that effect. However, this form must be signed by the conservator to acknowledge receipt of the form and the <i>Handbook for Conservators</i> . This is a stronger showing of at least some review and scrutiny of the form than is required for other information forms.

**SPR10-41****Probate: Statement of Duties and Responsibilities of Conservators** (revise form GC-348)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
7.	Superior Court, County of San Diego by Michael Roddy Executive Officer	A	No specific comment.	No response necessary.
8.	The Executive Committee of the Trusts & Estates Section of the State Bar of California, by Barry K. Matulich Sacramento	A	No specific additional comment.	No response necessary.





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

## II. CONSERVATOR OF THE PERSON (*continued*)

### 4. WORK WITH THE CONSERVATOR OF THE ESTATE

If someone else is handling the conservatee's assets, the two of you must work together to be sure the conservatee can afford the care you arrange. Purchases you make for the conservatee must be approved by the conservator of the estate or you may not be reimbursed.

### 5. CONSULT YOUR ATTORNEY AND OTHER RESOURCES

Your attorney will advise you on your duties, the limits of your authority, the rights of the conservatee, and your dealings with the court. If you have legal questions, check with your attorney, not the court staff. Other questions may be answered better and less expensively by calling on local community resources. (To find these resources, see the *Handbook for Conservators* and the local supplement distributed by the court.)

## III. CONSERVATOR OF THE ESTATE

If the court appoints you as conservator of the estate, you will manage the conservatee's finances, protect the conservatee's income and assets, make an inventory of the conservatorship estate's assets, develop a working plan to ensure that the conservatee's needs are met, make sure the conservatee's bills are paid, invest the conservatee's money, see that the conservatee is receiving all the income and benefits he or she is entitled to, ensure that tax returns are filed on time, keep accurate financial records, and regularly report your financial accounts to the court. (Note: The assets and finances of the conservatee are known as "the estate.")

### 1. MANAGING THE ESTATE'S ASSETS

#### a. Prudent investments

You must manage the estate assets with the care of a prudent person dealing with someone else's property. This means you must be cautious and you may not make any speculative investments.

#### b. Keep estate assets separate from anyone else's

You must keep the money and property in this estate separate from anyone else's, including your own. When you open a bank account for the estate, the account name must indicate that it is a *conservatorship* account and not your personal account. Never deposit estate funds in your personal account or otherwise mix them with your or anyone else's property, even for brief periods. Securities in the estate must be held in a name that shows they are estate property and not your personal property.

#### c. Interest-bearing accounts and other investments

Except for checking accounts intended for ordinary administration expenses, estate accounts must earn interest. You may deposit estate funds in insured accounts in financial institutions, but you should not put more than \$100,000 in one institution. Consult with an attorney before making other kinds of investments.

#### d. Other restrictions

There are many other restrictions on your authority to deal with estate assets. Without prior order of the court, you may not pay fees to yourself or to your attorney, make a gift of estate assets, or borrow from the estate. If you do not obtain the court's permission when it is required, you may be removed as conservator or you may be required to reimburse the estate from your own personal funds, or both. You should consult with an attorney concerning the legal requirements affecting sales, leases, mortgages, and investments of estate property.

### 2. INVENTORY OF ESTATE PROPERTY

#### a. Locate the estate's property

You must locate, take possession of, and protect all the conservatee's income and assets that will be administered in the estate. You should change the ownership of most assets of the conservatorship into the conservatorship estate's name. For real estate, you must record a copy of your *Letters of Conservatorship* with the county recorder in each county where the conservatee owns real property.

#### b. Determine the value of the property

You must arrange to have a court-appointed referee determine the value of the property unless the appointment is waived by the court. You, rather than the referee, must determine the value of certain "cash items." An attorney can advise you about how to do this.

#### c. File an inventory and appraisal

Within 90 days after your appointment as conservator, you must file with the court an inventory and appraisal of all the assets in the estate.

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

### III. CONSERVATOR OF THE ESTATE (*continued*)

#### 3. INSURANCE

You should determine that there is appropriate and adequate insurance covering the assets and risks of the estate. Maintain the insurance in force during the entire period of the administration (except for assets after they are sold).

#### 4. RECORD KEEPING

##### a. Keep an accounting

You must keep complete and accurate records of each financial transaction affecting the estate. The checkbook for the conservatorship checking account is your indispensable tool for keeping records of income and expenditures. You will have to prepare an accounting of all money and property you have received, what you have spent, the date of each transaction, and its purpose. You must describe in detail what you have left after you pay the estate's expenses.

##### b. Court review of your records

You must file a petition requesting that the court review and approve your accounting one year after your appointment and at least every two years after that. Save your receipts because the court may ask to review them also. If you do not file your accountings as required, the court will order you to do so. You may be removed as conservator if you fail to comply.

#### 5. CONSULTING AN ATTORNEY

Your attorney will advise you and help prepare your inventories, accountings, and petitions to the court. If you have questions, check with your attorney, not the court staff. You should cooperate with your attorney at all times. **When in doubt, contact your attorney.**

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### IV. DUTY TO DISCLOSE

If you are the spouse of the conservatee, you must disclose to the court the filing of any action or proceeding against the conservatee for (1) legal separation, (2) dissolution of marriage, (3) annulment, or (4) adjudication of nullity of marriage. The disclosure must be made within 10 days of the initial filing of the action or proceeding by filing a notice with the court and serving notice according the Probate Code.

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### V. LIMITED CONSERVATOR (for the developmentally disabled only)

#### 1. AUTHORITY SPECIFIED IN YOUR LETTERS

If the court appoints you as limited conservator, you will have authority to take care of **only** those aspects of the conservatee's life and financial affairs specified in your *Letters of Conservatorship* and the court's order appointing you. The conservatee retains all other legal and civil rights. Although most of the information provided in this form also applies to limited conservatorships (especially the duties of the conservator of the person), you should clarify with your attorney exactly which information applies in your case.

#### 2. DUTY TO HELP CONSERVATEE DEVELOP SELF-RELIANCE

You must secure treatment, services, and opportunities that will assist the limited conservatee to develop maximum self-reliance and independence. This assistance may include training, education, medical and psychological services, social opportunities, vocational opportunities, and other appropriate help.

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### VI. TEMPORARY CONSERVATOR

If the court appoints you as temporary conservator, you will generally have the same duties and authority as general conservators **except** the conservatorship will end on the date specified in your *Letters of Temporary Conservatorship*. Most of the information in this form also applies to temporary conservatorships, but you must consult your attorney about which duties you will **not** perform because of the limited time. A temporary conservator should avoid making long-term decisions or changes that could safely wait until a general conservator is appointed. As temporary conservator, you may not move a conservatee from his or her home or sell or give away the conservatee's home or any other assets without court approval.

**Sign the *Acknowledgment of Receipt* on page four.**

CONSERVATORSHIP OF (Name): <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>	CASE NUMBER: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/>
CONSERVATEE	

**ACKNOWLEDGMENT OF RECEIPT**  
of *Duties of Conservator* and *Handbook for Conservators*  
(Probate Code, § 1834)

1. I have petitioned the court to be appointed as conservator.
2. I acknowledge that I have received this statement of the duties and liabilities of the office of conservator (*Duties of Conservator* form) and the *Handbook for Conservators* adopted by the Judicial Council.

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)
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Date:

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

Date:

(TYPE OR PRINT NAME)	▶	(SIGNATURE OF PETITIONER)
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Existing form

**NOTICE**

**This statement of duties and liabilities is a summary and is not a complete statement of the law. Your conduct as a conservator is governed by the law itself and not by this summary or by the Judicial Council *Handbook for Conservators*. When in doubt, consult your attorney.**