

Invitation to Comment

Title	Orders Appointing and Directing the Actions of Court Investigators in Probate Conservatorships (adopt rule 7.1060 of the California Rules of Court; revise Judicial Council form GC-330 and convert it to an optional form; approve form GC-331)
Summary	Recent legislation has significantly changed the responsibilities of court investigators in probate conservatorships, necessitating the revision of the <i>Order Appointing Court Investigator</i> (form GC-330), a mandatory form, into two optional forms. A new California Rule of Court, rule 7.1060, is proposed to authorize courts to prescribe the use, preparation, and service of these forms by local rule.
Source	Probate and Mental Health Advisory Committee Hon. Mitchell L. Beckloff, Chair
Staff	Douglas C. Miller Senior Attorney 818-558-4800 douglas.miller@jud.ca.gov

The *Order Appointing Court Investigator* (form GC-330) was originally approved as an optional form in 1977.¹ The form was last revised in 1998 but was converted to a mandatory form in 1999, effective January 1, 2000, together with all other optional probate forms.²

This form is an all-purpose order covering both initial and review investigations in conservatorships. It also addresses specific investigations and reports required when conservators or proposed conservators request exclusive medical consent authority and when a temporary conservator proposes a change of the temporary conservatee’s residence.

Conservatorship reform legislation enacted in 2006 and additional legislation the following year³ made significant changes in the frequency and scope of investigations currently addressed in form GC-330. The contents and requirements for service of copies

¹ Optional and mandatory forms are defined in Cal. Rules of Court, rules 1.35 and 1.31, respectively.

² In 1999, 55 of 60 Judicial Council forms used in probate proceedings were optional forms. Because many courts had local rules requiring the use of some of these forms—in effect making them mandatory—the council converted all optional probate forms to mandatory forms but did not establish a general policy against approval of optional probate forms. See footnote 6.

³ Omnibus Conservatorship and Guardianship Reform Act of 2006 (Omnibus Act) (Stats. 2006, chs. 490–493 (Sen. Bills 1116, 1550, 1716; Assem. Bill 1363). The 2007 legislation is AB 1727 (Stats. 2007, ch. 553, §§ 7, and 9).

of reports of these investigations were also changed. In addition, the legislation introduced a new investigation and report that are required when a petition for appointment of a temporary conservator is filed.

These changes require a substantial revision of the existing form, but current practice with the form in many courts indicates that threshold questions concerning the form's continued necessity or utility should be addressed. This invitation to comment seeks answers to these questions as well as comments concerning the new and revised forms and the proposed rule of court.

Current use of form GC-330

Form GC-330 is now a mandatory form. Under rule 1.31(a), it must be used by all parties and accepted for filing by all courts if it is applicable to the situation. However, its actual use in the courts is uneven. As of 2006, four courts had adopted local rules providing that general orders appointing and directing the activities of their court investigators must be used instead of form GC-330. Four other courts required the use of a local form for this purpose instead of the Judicial Council form. On the other hand, 10 courts had local rules expressly requiring the use of form GC-330, in virtually all cases requiring it to be submitted with the petition for appointment of a general conservator. Twenty-seven courts did not mention the form in their local probate rules, and 13 others did not have local probate rules. It is unclear to what extent the form is used in the latter two groups of courts, but it seems likely that it is used in some of them at least some of the time.

This history indicates that a Judicial Council form order appointing an investigator and directing the appointee to conduct and file reports on specified investigations required by statute in each conservatorship matter may be unnecessary, at least in some courts.⁴ The advisory committee requests comments, particularly from judicial officers, probate staff attorneys, and other court respondents, concerning (1) their court's use of the existing form, (2) whether or not the form is useful, (3) alternatives employed by the court if the

⁴ Probate Code section 1454 requires courts to "appoint a court investigator when one is required for the purposes of a proceeding under this division [division 4 of the Probate Code, Guardianship, Conservatorship, and Other Protective Proceedings, commencing with section 1400]." It is not clear that this language requires a formal signed appointment order in every case, particularly in courts whose investigators are full-time employees; and it is not clear that a standing order appointing court investigators to conservatorship matters would not be sufficient if tied to each proceeding by a minute order referring to the standing order and entered in the court's minutes for that matter or by some other means. Moreover, section 1454 does not expressly require an appointment order to recite specific duties required of the investigator in each assignment he or she is given.

But the advisory committee understands that investigators in some courts are not full-time court employees. They work instead under contract with their courts. Some of these investigators work for the county in which their court is located but provide investigative services for the court on a part-time basis, under contracts between the court and the county. The committee believes that courts using part-time contract investigators might prefer to appoint them and direct their activities by explicit orders in each matter, whereas courts with full-time employee investigators might conclude that formal appointment orders in each case are unnecessary.

form is not used, (4) whether the form should simply be withdrawn and not replaced, and, if so, (5) the steps courts should take to assign and direct the performance of court investigators in individual cases.

The committee believes that if the *Order Appointing Court Investigator* is to continue to be used by some courts and not withdrawn entirely, it must be substantially revised and courts encouraged to prescribe its proper use explicitly. The committee therefore recommends approval of two optional forms instead of the current single mandatory form. The committee also recommends adoption of a California Rule of Court authorizing courts to continue to determine whether and to what extent these forms are to be used and to fix responsibility for their preparation and service. The new rule would not require courts to make this determination but would authorize them to do so explicitly by local rule, so practitioners active in several courts would be informed of the practice in each court and of their responsibilities concerning these orders.⁵

Forms *GC-330* and *GC-331*

A revised form GC-330 is proposed as an optional form.⁶ The form would address investigations required on the filing of a petition for (1) appointment of a conservator, commonly referred to as an initial investigation (Prob. Code, § 1826); (2) appointment of a temporary conservator (Prob. Code, § 2250.6);⁷ (3) authority for a temporary conservator to change the temporary conservatee's residence (Prob. Code, § 2253); and (4) a conservator's exclusive authority to consent to the conservatee's medical treatment if the petition alleges that the conservatee cannot or will not attend the hearing (Prob. Code, § 1894).

The committee proposes use of the form for these investigations because the investigations result from the filing of a petition and the petitioner or his or her counsel should expect them. Therefore, the court may easily require the petitioner to prepare and submit a proposed order with the petition.

⁵ The advisory committee decided to encourage and authorize courts to make this determination but not to require them to do so because of its concern about imposing on any court the cost of adopting and implementing a local rule.

⁶ The Judicial Council did not establish a general policy against approval of optional probate forms when it converted existing optional forms to mandatory forms in 1999. (See footnote 2.) Many optional forms in this field have been approved since then. Examples include forms used to prove service or courthouse posting: forms DE-120(MA), DE-120(P), DE-120(PA), GC-020(MA), GC-020(PA), GC-079(MA), GC-080(MA), and GC-341(MA). Other optional probate forms approved after 2000 include GC-045, GC-112, GC-112(A-1), GC-112(A-2), GC-115, and most of the 35 accounting schedule forms (GC-400s and GC-405s).

⁷ This is a new investigation required by the Omnibus Act. Section 2250.6 was added by AB 1363 (Stats. 2006, ch. 493, § 17, effective July 1, 2007).

The existing form provides for three of the four investigations listed above. But it also orders review investigations required by Probate Code section 1850. Review investigations are required periodically after the appointment of a conservator. They are not connected to the filing of a petition or any other action by a party.⁸ The advisory committee proposes to move orders concerning review investigations to a new form (form GC-331) because orders for these investigations are usually prepared by court staff, not by the conservator or another party on the filing of a petition. The new form would also be an optional form.⁹

Form GC-331 would also provide for another investigation that is not addressed in the current form although it has been required by the law since 1990. This is the investigation sometimes required by Probate Code section 2684 or 2686 after a petition for appointment of a successor conservator has been filed. Although this investigation may be triggered by the filing of this petition, it is not required for all petitions. The investigation is required only when the petition alleges that the conservatee cannot attend or refuses to attend the hearing (Prob. Code, § 2684) or, in the absence of these allegations, the hearing must be continued because the conservatee fails to attend (Prob. Code, § 2686). Thus the petitioner may believe when his or her petition is filed that an order directing an investigation will not be required and may not know before the scheduled hearing date that this belief is unfounded. For this reason, the advisory committee believes that an order directing this investigation properly belongs in a form with orders concerning review investigations, to be prepared by court staff rather than by a petitioner.

The Omnibus Act and the 2007 legislation made changes in most of the investigations or reports identified in the forms. These changes are reflected in the text of the new and revised orders. The changes are as follows (all references to form GC-330 are to the revised version):

1. The investigator's report on an initial investigation must be mailed to the conservatee's spouse or registered domestic partner and second degree relatives and others designated by the court, except as the court may otherwise order to prevent harm to the proposed conservatee (form GC-330, item 1f, on page 1);

⁸ See item 3 on page 2 of the current form. Before passage of the Omnibus Act, section 1850 required review investigations after the first year of the conservatorship and biennially thereafter. These investigations are now required six months after the appointment of a conservator, at the end of the first year of the conservatorship, and annually thereafter, subject to the court's authority to postpone a full investigation for an additional year if the prior annual review report finds that the conservator is acting in the best interests of the conservatee (Prob. Code, § 1850(a), as amended by SB 1716 (Stats. 2006, ch. 492, § 3); and AB 1363 (Stats 2006, ch. 493, § 11.5).

⁹ Petitioners who are required to submit form GC-330 with their petition for the appointment of a conservator do not select the review investigation alternative (item 3 on page 2 of the current form) because that investigation is not required until after the appointment petition has been granted. But the court files retain these unselected orders. Some courts later prepare other orders, either using the form or staff-drafted documents, to direct their review investigations, thereby collecting unnecessary copies of these orders in the case file.

2. If a temporary conservator seeks to change the conservatee's residence, the investigation required by Probate Code section 2253 must be completed unless the court otherwise orders or directs a different investigation. Under former law, an investigation was required only if ordered by the court (form GC-330, items 3b and 3c, at page 2);
3. An investigation is now required when the appointment of a temporary conservator is requested (form GC-330, item 2, at pages 1 and 2);
4. The review investigations required by Probate Code section 1850 and described in detail in section 1851 must include a personal visit to the conservatee without prior notice to the conservator unless the court determines that such notice is necessary or would prevent harm to the conservatee (form GC-331, item 1a, at page 1);
5. The investigator's determination in a review investigation of whether the conservator is acting in the best interests of the conservatee must include examinations of the conservatee's placement, quality of care (including physical and mental treatment), and the conservatee's finances (form GC-331, item 1b, at page 1);
6. The review investigation must include, "to the greatest extent possible," interviews with the conservator, the conservatee's spouse or registered domestic partner, and the conservatee's first degree relatives, or, if none, his or her second degree relatives (form GC-331, item 1b, at page 1);
7. The review investigation must include a review of the conservator's accounting with a conservatee of sufficient capacity, "to the extent practicable" (form GC-331, item 1d, at page 1);
8. The body of the investigator's report to the court must not include confidential medical or criminal history information. Such information must be provided in separate attachments to the report (form GC-331, item 1i, at page 2);
9. Copies of the investigator's report, including its confidential attachments, must be mailed to the conservator, the conservatee, and their attorneys. Copies of the report without the confidential attachments must also be mailed to the conservatee's spouse or registered domestic partner and first degree relatives. If there are no first degree relatives, the report must be mailed to the conservatee's next closest relative, except as the court determines that such mailings will result in harm to the conservatee (form GC-331, items 1j, 1k, and 1l, at page 2);

10. If the court determines at the first annual or any later review investigation that the conservator is acting in the best interests of the conservatee, it may order that the next full review take place two years later. In that event, an investigation is still necessary at the end of the next year but only a status report must be filed concerning whether the conservatorship is still warranted and whether the conservator is still acting in the best interests of the conservatee (form GC-331, item 2, at page 2); and
11. The court may order a review investigation at any time on its own motion or at the request of any interested person (form GC-331, item 3, at page 2).

Form GC-330 currently recites in detail the determinations that investigators must make in the investigations identified in the form.¹⁰ The revised form instead refers to the statutes that specify the determinations required. This change permits the revised form to retain its two-page length despite the much greater detail needed to describe the investigations, reports, and service of reports required under the new laws. See item 1d on page 1 (initial investigations); item 2c on page 2 (investigations of temporary conservatorships); item 3a(2) on page 2 (investigation of temporary conservatee's change of residence); item 4b on page 2 (investigations of requests for conservators' exclusive medical consent authority).

New form GC-331 follows this practice in its item on review investigations (item 1b on page 1) but recites the determinations required by Probate Code section 2684 in items 4c(3)–(5) on page 3, concerning successor conservator investigations. The latter determinations are not complex, and referring to the statutes instead of reciting the determinations in the form would not reduce the form's length.

Both the new and revised forms recite in detail the investigator's statutory obligations to report to the court and, where required by law, to serve copies of his or her written report. These requirements were either established or substantially changed by the Omnibus Act and the 2007 legislation. See revised form GC-330, items 1e and f, page 1; items 2d and f, page 2; item 3a(3), page 2; and item 4c, page 2; and form GC-331, items 1i–1l, page 2; and items 4c(6) and (7), page 3.

Rule 7.1060

The advisory committee believes that courts should have authority to require or dispense with the use of optional Judicial Council form orders appointing and directing the actions of court investigators in conservatorship cases. However, the committee also recommends that courts should be encouraged to make the election to use or dispense with the form

¹⁰ See existing form GC-330 on pages 1 and 2, items 1b (initial investigation), 2b (investigations required for a temporary conservatee's change of residence and for a conservator's request for exclusive authority to consent to the conservatee's medical treatment), and 3b–e (review investigations).

orders explicitly, by adoption of local rules that provide guidance to practitioners and parties appearing in conservatorship cases.¹¹ A new California Rule of Court, rule 7.1060, is proposed for this purpose.

The new rule makes an exception to rule 1.35's definition of an optional Judicial Council form. Rule 1.35 provides that the option to use an optional form belongs to the filing party, not to the court; if the form is applicable the court must accept it. It is unclear whether, without such an exception, a court would have authority to require a filing party either to use or refrain from using an optional form. The advisory committee believes that the unique circumstances of these forms justify the exception.

These forms are orders directing officers of the court to perform investigations and make, file, and serve copies of reports required by law. The orders confer no particular benefit to petitioners beyond the continued progress of their matters because the investigations and reports required by law are ordered. Without clear directions from the court, a petitioner would be unlikely to submit an order of this kind, in an optional form or otherwise: the concerns addressed by rule 1.35 are not present. The courts' mixed experience with current form GC-330—despite its present status as a mandatory form—bears this out. Within the limits of statutes governing court investigators, the courts should be permitted to determine how to appoint and direct their own investigators in individual cases.

Rule 7.1060(a) would apply to revised form GC-330. The rule would authorize courts to either require or dispense with use of the form by local rule and also to prescribe who is to prepare the form and other details of its delivery and execution. If the court elects to dispense with the form, the alternatives mentioned in the rule are a general order, a court-drafted order, or a local form order. These are the alternatives to form GC-330 currently identified in courts' local rules.

Rule 7.1060(b) concerns the new form order, form GC-331. The treatment of this form differs slightly from that of form GC-330. The difference is that the new form is proposed as a court-use form only, not to be prepared and filed by a petitioner, for the reasons discussed on page 4 above.

¹¹ But see footnote 5.

Rule Proposal

Rule 7.1060 of the California Rules of Court would be adopted, effective January 1, 2011, to read as follows:

1 **Rule 7.1060. Investigations and reports by court investigators**
2

3 **(a) Order Appointing Court Investigator (form GC-330)**
4

5 Order Appointing Court Investigator (form GC-330) is an optional form
6 within the meaning of rule 1.35 of these rules, except as follows:
7

8 (1) A court may, by local rule, require that form GC-330 be used for orders
9 appointing court investigators and directing them to conduct all or any
10 of the investigations described in the form and to prepare, file, and
11 serve copies of reports concerning those investigations. The local rule
12 may also prescribe the form's preparation, service, and delivery to the
13 court for execution and filing.
14

15 (2) A court may, by local rule, require that a general order, a court-
16 prepared order, or a local form order instead of form GC-330 be used to
17 appoint and direct the actions of court investigators concerning all or
18 any of the investigations and reports described in form GC-330.
19

20 **(b) Order Appointing Court Investigator (Review and Successor Conservator**
21 **Investigations) (form GC-331)**
22

23 Order Appointing Court Investigator (Review and Successor Conservator
24 Investigations) (form GC-331) is an optional form within the meaning of rule
25 1.35 of these rules, except as follows:
26

27 (1) A court may, by local rule, require that form GC-331 be used for orders
28 appointing court investigators and directing them to conduct all or any
29 of the review investigations under Probate Code sections 1850 and
30 1851 or investigations concerning the appointment of successor
31 conservators under Probate Code sections 2684 and 2686 described in
32 the form and to prepare, file, and serve copies of reports concerning
33 those investigations. Form GC-331 is for the court's use only.
34

1 (2) A court may, by local rule, require that a general order, a court-
2 prepared order, or a local form order instead of form GC-331 be used to
3 appoint and direct the actions of court investigators concerning all or
4 any of the investigations and reports described in form GC-331.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 5 March 24, 2010 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	CASE NUMBER:
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	

TO (name):

You are hereby appointed Court Investigator in the matter entitled above.

1. **Prior to appointment of a general conservator** YOU ARE DIRECTED TO:
- a. Conduct the interviews required by Probate Code section 1826(a). Interview the proposed conservatee personally.
 - b. Provide to the proposed conservatee the information required by Probate Code section 1826(b).
 - c. Determine whether it appears that the proposed conservatee is unable to attend the hearing and, if able to attend, whether he or she is willing to attend.
 - d. Make the determinations required by Probate Code sections 1826(d)–(j). In making those determinations, review the allegations of the *Petition for Appointment of Probate Conservator* (form GC-310) as to why the appointment of a conservator is required and refer to the *Confidential Supplemental Information* (form GC-312) submitted by the petitioner. Consider the facts shown in the latter form that address each of the categories specified in Probate Code section 1821(a)(1)–(5) and consider, to the extent practicable, whether you believe the proposed conservatee suffers from any of the mental function deficits listed in Probate Code section 811(a) that significantly impairs his or her ability to understand and appreciate the consequences of his or her actions in connection with any of the functions described in Probate Code section 1801(a) (if a conservator of the person is sought) or section 1801(b) (if a conservator of the estate is sought). If you believe the proposed conservatee suffers from one or more mental function deficits listed in Probate Code section 811(a), identify all observations that support your belief.
 - e. Report to the court in writing, at least five days before the hearing, concerning all of the foregoing, including the proposed conservatee's express communications concerning (1) representation by legal counsel; and (2) whether he or she is not willing to attend the hearing, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.
 - f. Mail, at least five days before the date set for hearing, a copy of your report (1) to all persons listed in Probate Code section 1826(f) **except** for the persons listed in attachment 1f(1) because the court has determined that mailing to those persons will result in harm to the proposed conservatee; **and** (2) to the other persons ordered by the court listed in Attachment 1f(2) (*specify names and addresses in the attachment*).
 - g. Comply with the other orders specified in Attachment 1g.
2. **Upon the filing of a *Petition for Appointment of Temporary Conservator*** YOU ARE DIRECTED TO:
- a. To the extent feasible before the hearing on the petition or, if not feasible, within two court days after the hearing, conduct the interviews required by Probate Code section 2250.6(a)(1) (prehearing) or 2250.6(b)(1) (posthearing). Interview the proposed temporary conservatee personally.
 - b. Provide to the proposed temporary conservatee the information required by Probate Code section 2250.6(a)(2) (prehearing) or 2250.6(b)(2) (posthearing).

CONSERVATORSHIP OF _____ (Name):	CASE NUMBER: _____
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

2. c. To the extent feasible, make the determinations required by Probate Code section 2250.6(a)(3)–(5) before the hearing on the petition.
- d. To the extent feasible, before the hearing on the petition, report to the court in writing concerning all of the matters stated in items 2a–c.
- e. If you do not visit the proposed conservatee until after the hearing at which a temporary conservator was appointed, and the conservatee objects to the appointment of the temporary conservator or requests an attorney, report this information to the court promptly and in no event more than three court days later.
- f. If it appears to you that the temporary conservatorship is inappropriate, immediately, in no event more than two court days later, make a written report of your determination to the court.

3. **Before the court grants an order under Probate Code section 2253 authorizing the temporary conservator to change the residence of the temporary conservatee**

a. YOU ARE DIRECTED TO:

- (1) Personally interview and inform the temporary conservatee of the contents of the request by the temporary conservator for authority to change the temporary conservatee's residence; of the nature, purpose, and effect of the proceedings; and of the right to oppose the request, attend the hearing, and be represented by legal counsel.
- (2) Make the determinations required by Probate Code section 2253(b)(3)–(7).
- (3) At least two days before the hearing on change of residence, report your findings concerning the foregoing in writing to the court, including in your report the temporary conservatee's express communications concerning representation by legal counsel and whether he or she is not willing to attend the hearing and does not wish to contest the petition.
- (4) Comply with the other orders specified in Attachment 3a(4).

b. Good cause appearing, YOU ARE DIRECTED NOT to conduct the investigation and make the report described in Probate Code section 2253(b).

c. Good cause appearing, YOU ARE DIRECTED as specified on Attachment 3c, INSTEAD of proceeding with the investigation and report described in Probate Code section 2253(b).

4. **Before the court grants an order relating to medical consent under Probate Code section 1880.**

The petition for an order determining that there is no form of medical treatment for which the conservatee or proposed conservatee has the capacity to give informed consent alleges that he or she is not willing to attend the hearing, or the court has received an affidavit or certificate attesting to the medical inability of the conservatee or proposed conservatee to attend the hearing.

YOU ARE DIRECTED TO:

- a. Personally interview and inform the conservatee or proposed conservatee of the contents of the petition; of the nature, purpose, and effect of the proceedings; and of the right to oppose the petition, attend the hearing, and be represented by legal counsel.
- b. Make the determinations required by Probate Code section 1894(c)–(g).
- c. At least five days before the hearing on the petition, report your findings concerning the foregoing in writing to the court, including in your report the conservatee's express communications concerning representation by legal counsel and whether the conservatee is not willing to attend the hearing and does not wish to contest the petition.
- d. Comply with the other orders specified in Attachment 4d.

5. Number of pages attached: _____

Date: _____

 JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY Draft 3 February 26, 2010 Not Approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF _____ (Name): _____ CONSERVATEE	
ORDER APPOINTING COURT INVESTIGATOR (Review and Successor Conservator Investigations)* <input type="checkbox"/> Conservatorship <input type="checkbox"/> Limited Conservatorship	CASE NUMBER: _____

TO (name):

You are hereby appointed Court Investigator in the matter entitled above.

1. **Review investigation**

YOU ARE DIRECTED TO:

- a. Without prior notice to the conservator With prior notice to the conservator because of necessity or to prevent harm to the conservatee visit and personally inform the conservatee that he or she is under a conservatorship and give the name of the conservator to the conservatee.
- b. Make the determinations required by Probate Code section 1851(a), including whether the conservator is acting in the best interests of the conservatee. This last determination must include an examination of the conservatee's placement; the quality of care, including physical and mental treatment; and the conservatee's finances, and must include, to the greatest extent possible, interviews with the conservator, the conservatee's spouse or registered domestic partner and relatives within the first degree, or, if none, the conservatee's relatives within the second degree.
- c. The court has made an order or orders under (select all that apply): Probate Code section 1873 (authority of conservatee to enter into transactions) Probate Code section 1880 (conservatee's capacity to give informed consent to medical treatment) Probate Code section 1901 (conservatee's capacity to marry). Determine whether the present condition of the conservatee is such that the terms of the court order or orders identified above should be modified or the order or orders revoked.
- d. To the extent practicable, review the conservator's accounting with the conservatee if he or she has sufficient capacity.
- e. Inform the court immediately if you are unable at any time to locate the conservatee.
- f. (If the conservator is authorized to act under Probate Code section 2356.5--dementia treatment or placement) Advise the conservatee specifically that he or she has the right to object to the conservator's powers granted under section 2356.5. Determine whether the conservatee objects to the conservator's powers under section 2356.5, whether the powers granted under section 2356.5 are warranted, and whether some change in those powers is warranted.
- g. (For limited conservatorship only) Make a recommendation regarding the continuation or termination of the limited conservatorship.

***For court use only. This form is for ordering review investigations and reports under Probate Code sections 1850 and 1851 or investigations and reports concerning appointment of a successor conservator under Probate Code section 2684 or 2686. You may use Order Appointing Court Investigator (form GC-330) to order initial and other investigations and reports under Probate Code sections 1826, 1894, 2250.6, and 2253. See Cal. Rules of Court, rule 7.1060.**

CONSERVATORSHIP OF _____ (Name):	CASE NUMBER:
CONSERVATEE	

1.
 - h. (For conservatorships existing on December 31, 1980, in which the conservatee has not been adjudged incompetent) Determine whether an order should be made under Probate Code section 1873 broadening the capacity of the conservatee.
 - i. Certify in writing to the court your determinations and findings, including a statement of the facts on which the findings are based, not less than 15 days before the date of review under Probate Code section 1850. Do not disclose confidential medical information or confidential criminal history information from the California Law Enforcement Telecommunications System (CLETS) in the body of your report. Place all such information in one or more separate attachments to the report.
 - j. At the same time your report is certified to the court, mail copies to the conservator and to the attorneys of record for the conservator and the conservatee.
 - k. Mail copies of your report, modified by deletion of all attachments containing confidential medical information and confidential information from CLETS, to the conservatee's spouse or registered domestic partner and relatives within the first degree or, if there are no such relatives, to the conservatee's next closest relative.
 - l. Mail copies of your report, modified by deletion of all attachments containing confidential medical information and confidential information from CLETS, to the conservatee's spouse or registered domestic partner and relatives within the first degree or, if there are no such relatives, to the conservatee's next closest relative, **except** the person or persons named in Attachment 1/ because the court has determined that mailing to that person or persons will result in harm to the conservatee.
 - m. Comply with the other orders specified on Attachment 1m.

2. **Biennial review investigation**

- a. In its review of the conservatorship for the period ending on (date): _____, the court has determined that the conservator is acting in the best interests of the conservatee.
- b. The next review in this conservatorship is to cover a period of two years ending on (date): _____
- c. YOU ARE DIRECTED TO conduct an investigation under Probate Code section 1851(a) one year before the review described in b and file a status report in the case file regarding whether the conservatorship still appears to be warranted and whether the conservator is acting in the best interests of the conservatee as regards the conservatee's placement, quality of care, including physical and mental treatment, and finances.

3. **Review investigation on the court's own motion or on request by an interested person**

YOU ARE DIRECTED, on the court's own motion,
 at the request of (name): _____ an interested person,
 to conduct a review investigation of the conservatorship and make a report to the court as follows (specify):

Continued in Attachment 3.

CONSERVATORSHIP OF _____ (Name): <div style="text-align: right;">CONSERVATEE</div>	CASE NUMBER:
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4. **Successor conservator investigation**

- a. A petition for appointment of a successor conservator has been filed in this matter. The petition does not allege that the conservatee will be present at the hearing on the petition, which is scheduled as follows:

Date: _____ Time: _____ Dept.: _____

- b. A petition for appointment of a successor conservator has been filed in this matter. The petition alleges that the conservatee would be present at the hearing on the petition, but the conservatee failed to appear at the hearing. The hearing has been continued to the following date, time, and department:

Date: _____ Time: _____ Dept.: _____

c. YOU ARE DIRECTED TO:

- (1) Interview the conservatee personally.
- (2) Inform the conservatee of the nature of the proceeding to appoint a successor conservator, the name of the proposed successor conservator, and the conservatee's rights to appear personally at the hearing, to object to the person proposed as successor conservator, to nominate a person to be appointed as successor conservator, to be represented by legal counsel if the conservatee chooses, and to have legal counsel appointed by the court if the conservatee is unable to retain legal counsel.
- (3) Determine whether the conservatee objects to the person proposed as successor conservator or prefers another person to be appointed.
- (4) If the conservatee is not represented by legal counsel, determine whether he or she wishes to be represented by legal counsel and, if so, identify the attorney whom the conservatee wishes to retain or whether he or she desires the court to appoint legal counsel.
- (5) If the conservatee does not plan to retain legal counsel and has not requested appointment of legal counsel by the court, determine whether the appointment of legal counsel would be helpful to resolution of the matter or is necessary to protect the interests of the conservatee.
- (6) Report to the court in writing, at least five days before the hearing or continued hearing, concerning items (2)–(5), including the conservatee's express communications concerning representation by legal counsel and whether the conservatee objects to the person proposed as successor conservator or prefers that some other person be appointed.
- (7) Mail, at least five days before the hearing or continued hearing, a copy of the report identified in item (6) to the attorneys, if any, for the petitioner and the conservatee, and to the following additional persons (*specify*):

Continued in Attachment 4.

4. Number of pages attached: _____

Date: _____

JUDICIAL OFFICER

SIGNATURE FOLLOWS LAST ATTACHMENT

Item SPR10-39 Response Form

Title: **Orders Appointing and Directing the Actions of Court Investigators in Probate Conservatorships** (adopt Cal. Rules of Court, rule 7.1060; revise Judicial Council form GC-330 and convert it to an optional form; approve form GC-331)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Friday, June 18, 2010

Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.