

CONSERVATORSHIP FROM START TO FINISH



**Barbara
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Legal Aid Society
of San Diego, Inc.

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AGENDA



- Introduction/overview
- Alternatives to Conservatorship
- Types of Conservatorship
- Conservatorship Process (steps and forms)

Barbara Treash-Osio
Lead Attorney

Legal Aid Society of San Diego, Inc.

619-471-2719

(very limited phone
availability)

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LASSD CONSERVATORSHIP CLINIC

- First come, first served, no appointments.
- Not legal representation. Provide information and options and help prepare forms.
- Tuesdays, Wednesdays, and Thursdays
9AM-Noon and 12:30-3:00PM
- Location – Central Courthouse
 - 1100 Union Street, San Diego, CA 92101, 6th floor, room 671 between Departments 603 and 604

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ALTERNATIVES TO CONSERVATORSHIP

- PROBATE CODE § 1800.3 AND 1821(A)(3)
 - Conservatorship should only be granted if
Least Restrictive way to protect proposed conservatee

Alternatives to conservatorship

Advance Health Care Directives (only if capacity)

Durable Power of Attorney (only if capacity)

Supported decisionmaking agreement (voluntary)

Representative Payee (capacity not required)

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Health Care Decisions: Decisionmakers and Surrogates.

Probate Code sections 4711 and 4712 allow designation of a surrogate for health care decisions at a health care facility caring for the patient.

THIS DOES NOT INVOLVE THE COURT. THIS DOES NOT REQUIRE A CONSERVATORSHIP.

It is only a designation for the “health care facility” but this means it is not an emergency to get a conservatorship only based on someone being in the hospital. It still might be a good idea for the long run to get a conservatorship, but no one needs an urgent conservatorship just based on someone being in the hospital. The probate code provides for non-court options.

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PARTIES

- (Proposed) Conservatee
- (Proposed) Conservator(s)

Co-conservators must be unanimous or decide by majority

PC § 2105(c)

Usually parents and/or adult siblings. It is usually best to have two or three conservators. The court will consider the proposed conservatee’s wishes and also the relationship. Sometimes a non-relative could be approved.

PC § 1810-13: Nomination & Order of Preference

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PARTIES

- Petitioner(s)
(PC 1820)
- (Proposed)
Conservator(s)
- (Proposed)
Conservatee
- Objector(s)

The Petitioner is usually applying to be a Conservator. The Petitioner can be anyone interested, including spouse, relative, government entity or friend. (PC 1820). The Public Guardian is sometimes required to Petition for Conservatorship (imminent threat) (PC 2920).



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JUDICIAL COUNCIL FORMS

SEE PROBATE PACKETS ON COURT WEBSITE

Conservatorship initial filing

FW-001-GC request to waive court fees

FW-003-GC order on court fee waiver

GC-310 petition for appointment of probate conservator

GC-320 citation for conservatorship

GC-314 confidential conservator screening form

GC-312 confidential supplemental information

SDSC PR-020 referral information and list of relatives

GC-348 duties of conservator

GC-335 capacity declaration

Dementia only initial filing

GC-335A capacity declaration attachment for dementia

GC-313 attachment requesting dementia powers

Conservatorship later filings

GC-020 notice of hearing

GC-320 citation for conservatorship

SDSC PR-162 submitted order – blue paper preferred

GC-340 order appointing probate conservator

GC-350 letters of conservatorship

GC-341 notice of conservatee's rights

GC-355 conservatee's level of care

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TYPES OF CONSERVATORSHIP (LASSD does not help with Conservatorship of the Estate)

OF THE PERSON

PERSON IS **UNABLE** TO PROVIDE PROPERLY FOR HEALTH, FOOD, CLOTHING AND SHELTER.

PC §1801(a)

OF THE ESTATE

PERSON IS **SUBSTANTIALLY UNABLE** TO MANAGE FINANCIAL RESOURCES OR RESIST FRAUD OR UNDUE INFLUENCE.

PC §1801(b)

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TYPES OF CONSERVATORSHIP

Of the Person

Limited - PC 1801(d) – developmental disabilities

General - PC 1801(a) – age or trauma

Temporary – urgent

Of the Estate

Limited - PC 1801(d) – bond + attorney required

General - PC 1801(a) – bond + attorney required

Temporary - urgent

LPS—Mental Health – County Public Conservator

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LIMITED CONSERVATORSHIPS

- Purpose:
 - Protective: protect health, welfare, and safety
 - Preserve civil rights
- Features:
 - Only for those with developmental disabilities (PC §1420, 1801(d).
 - May lack capacity for some, but not all, tasks necessary to provide properly for personal care or finances.
 - Seven Powers (PC § 2351.5)
 - Those granted must be enumerated in Orders and Letters.
 - For adults, but can start process when 17 years old

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DEVELOPMENTAL DISABILITY

- A developmental disability is a disability that originates before age 18, is expected to continue indefinitely, and constitutes a substantial handicap (PC §1420). Common developmental disabilities are Down Syndrome, Cerebral Palsy, Autism, and Intellectual Disability.
- regional center report required for limited conservatorship (PC § 1827.5).
 - Substantial Handicap = significant functional limitations in three or more areas:
 - Self-care;
 - Receptive and expressive language;
 - Learning;
 - Mobility;
 - Self-direction;
 - Capacity for independent living; or
 - Economic self-sufficiency



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POWERS OF LIMITED CONSERVATOR

- Inherent powers PC §2351.5(a) — care, custody and control
- Requested powers PC §2351.5(b):
 1. Right to fix the Conservatee's residence.
 2. Access to confidential records and papers.
 3. Right to give or withhold consent to marriage.
 4. Control of the Conservatee's right to contract.
 5. Right to give or withhold medical consent.
 6. Right to control Conservatee's social and sexual contacts.
 7. Make decisions regarding education.

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CONSERVATEE'S RETAINED POWERS/RIGHTS

Conservatee generally keeps the right to:

- Receive and control his/her own salary. PC § 2601; 1871(b)
- Make or change a Will (unless no capacity separately proven).
- Be represented by a lawyer.
- Ask a judge to change the conservator.
- Ask a judge to end the conservatorship.
- Vote, unless judge says they are unable. PC § 1910

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LIMITATIONS ON THE CONSERVATOR'S POWER

- Cannot place conservatee in a mental health treatment facility against conservatee's wishes. PC § 2356 (a)
 - Only LPS conservator can do so – initiated by Public Conservator
- Cannot administer experimental drugs. PC § 2356 (b)
- Cannot authorize convulsive treatment. PC § 2356 (c)
- Cannot have the conservatee sterilized. PC § 1950-1969
 - Only a judge can make that decision via a special petition.



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Health Care includes Mental Health Care

However, a Probate Conservator does not have the power to authorize involuntary placement in a mental health facility– you need LPS conservatorship for that

Probate Code 4615 Defines "Health care" as including treatment of a mental health condition.

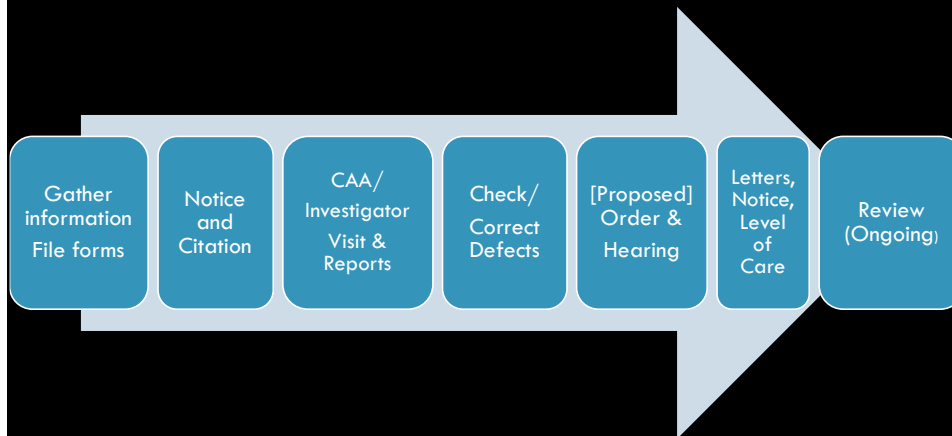
Probate Code 4617 Defines "Health care decision" to include"
(b) Approval or disapproval of diagnostic tests, surgical procedures, and programs of medication, including mental health conditions.

Probate Code 4701 ADVANCE HEALTH CARE DIRECTIVE first sentence states "**You have the right to give instructions about your own physical and mental health care**"

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ESTABLISHING A CONSERVATORSHIP



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PLEASE DO NOT DO YOUR OWN FORMS

Please complete our questionnaire, which contains the needed information for us to prepare your forms for you.

CONSERVATORSHIP QUESTIONNAIRE

INSTRUCTIONS: Please complete ALL information. If any information is not relevant, please indicate with "N/A." If you do not know the information please indicate that as well. Please print clearly in ink.

INSTRUCCIONES: Por favor complete toda la información. Si alguna información no es aplicable, favor indicar con "N/A". Si no sabe la información, indíquelo también. Por favor escriba claramente con tinta.

Note—This questionnaire is for Conservatorship of the Person Only! If you need Conservatorship of the Estate you will likely need to hire an attorney in private practice!

1. Is Proposed Conservatee a Regional Center client? _____
2. What is his/her diagnosis? _____
3. Name of Proposed Conservatee (Person needing care): _____
 - a. Full Name of the Proposed Conservatee: _____ (she / he)
Nombre completo del pupilo (Persona que necesita cuidado)
 - b. Marital Status: Single / Married / Widowed / Divorced / Domestic Partnership
 - c. Spouse Info if applicable: Name, address, divorce date if divorced, etc.: _____
 - d. Date of birth of proposed conservatee _____
4. Name of Proposed Conservator(s) (Person(s) who will make decisions):
 - a. Name of the Proposed Conservator(s) relationship to proposed conservatee
 1. _____ (she / he)
 2. _____ (she / he)
 3. _____ (she / he)

Please do not request more than 3 conservators. While it is theoretically possible, it causes many problems and complications with the paperwork. I am unable to prepare the paperwork with more than 3 conservators unless I use many attachment pages. More than 3 conservators is NOT recommended. In most situations, you should have 2 or 3 conservators.

 - b. Who will be the petitioner (the person asking the court to appoint everyone, who can attend the hearing, and who will sign most of the documents)? Put a "P" next to that person's name above. _____
5. Existing Conservatorship/Existen los tutelas
 - a. Is there an existing Conservatorship case involving proposed conservatee? (Y/N) _____
¿La persona que necesita cuidado esta involucrado en otro caso de tutela? (Si o No) _____
 - i. If yes, write in the Case Number, and where filed if not in San Diego _____

QUESTIONNAIRE: PROPOSED CONSERVATORSHIP | 1

- b. Is the Proposed Conservatee subject to a mental health LPS Conservatorship? Note that usually the answer is no, and if the answer is yes, you should provide the case number and expiration date of the LPS conservatorship. (Y/N) _____

¿Pupilo tiene una tutela de la salud mental LPS?

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GETTING STARTED

- Who is the Petitioner?
- Will there be Co-conservators?
- Does the Proposed Conservatee live in San Diego County? (conservatee determines venue/jurisdiction)
- Is conservatorship appropriate? What kind?
- Gather information/questionnaire
- We prepare your forms, but we do not file them, do not serve documents, or go to court with you.



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SIGN, DATE, COPY AND FILE THE INITIAL FORMS, ON 3RD FLOOR PROBATE OFFICE

- Judicial Council forms, local forms, attachments
- One original, plus one copy
- Will be given hearing date & time
- Pro Pers may file paper forms at Probate Business Office
- Electronic filing now required for Attorneys, but not Pro Pers



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FEE WAIVER

- Filing fee \$435 + \$30 for court reporter = \$465
- Investigator fee of \$800
- Fee waiver available
- Based on the income of the CONSERVATEE!!!
- Many Conservatees qualify for fee waiver

FW-001-GC Request to Waive Court Fees (Ward or Conservatee)

CONFIDENTIAL

This form must be used by a guardian or conservator, or by a petitioner for the appointment of a guardian or conservator, to request a waiver of court fees in the guardianship or conservatorship court proceeding or in any other civil action in which the guardian or conservator represents the interests of the ward or conservatee as a plaintiff or defendant.

If the ward or conservatee (including a proposed ward or conservatee, if a petition for appointment of a guardian or conservator has been filed but has not yet been decided by the court) directly receives public benefits or is supported by public benefits received by another for his or her support, it is a low-income person, or does not have enough income to pay for his or her conservator's fees, needs and the court fees, you may use this form to ask the court to waive the court fees. The court may order you to answer questions about the finances of the ward or conservatee. If the court waives the fees, the ward or conservatee, his or her estate, or someone with a duty to support the ward or conservatee, may still have to pay him or her.

You cannot give the court proof of the ward's or conservatee's eligibility.

The ward's or conservator's financial situation improves during this case, or you settle the child case or behalf of the ward or conservatee for \$10,000 or more. The trial court's waiver fees will have a lien on any such settlement in the support of the waived fees and costs. The court may also charge the ward or conservatee, or his or her estate, any collection costs.

1. Your Information (guardian or conservator, or person asking the court to appoint a guardian or conservator)

Name (petitioner's name): _____
Is not the mailing address: ☐ Petitioner's Address: _____
City: _____ State: _____ Zip: _____

2. Your Lawyer (if you have one): Name: _____ State Bar No.: _____
Firm or Affiliation: _____ Telephone: _____
Address: _____
City: _____ State: _____ Zip: _____ E-mail: _____

a. Has lawyer been asked to advance all of a portion of court fees or costs (check one): Yes ☐ No ☐
b. (If yes, your lawyer must sign here.) Lawyer's signature: _____
(If your lawyer is not providing legal aid type services based on your or the ward's or conservatee's low income, you may have to go to the trial court to explain why you are asking the court to waive the fees.)

3. Ward's or Conservatee's Information (for a separate Request for each ward in a multi-ward case):
Name: _____ Age and date of birth (month and day): _____
Street or care facility address: _____
City: _____ State: _____ Zip: _____
Phone number: _____

4. Ward's or Conservatee's Lawyer, if any: Name: _____ State Bar No.: _____
Firm or Affiliation: _____ Telephone: _____
City: _____ State: _____ Zip: _____ E-mail: _____

5. Ward or Conservatee's Job (if not employed, so state): Fill out or write on _____
Name of employer: _____
Employer's address: _____ State: _____ Zip: _____

Request to Waive Court Fees (Ward or Conservatee) FW-001-GC, page 1 of 4

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PETITION

- GC-310
- Petitioner requests conservator(s) and necessary powers

CC-310 CONSERVATORSHIP OF PERSON

1. a. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

b. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

c. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

d. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

e. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

f. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

g. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

h. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

i. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

j. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

k. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

l. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

m. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

n. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

o. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

p. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

q. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

r. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

s. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

t. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

u. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

v. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

w. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

x. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

y. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

z. ☒ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee. ☐ I am asking the court to appoint a conservator for the person and duties of the proposed conservatee.

See Item 5b on page 4.

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR (Probate Guardianships and Conservatorships) Page 1 of 7

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PETITION: WHY CONSERVATORSHIP?

- c. (Proposed) conservatee requires a conservator and is
 (1) ☒ unable to properly provide for his or her personal needs for physical care, food, clothing, or shelter.
 Supporting facts are ☐ specified in Attachment 5c(1) ☒ as follows:

Part 5c, describe why conservatee needs a conservatorship.

**The Proposed Conservatee has been diagnosed with Cerebral Palsy.
 She has been assessed with a mental age of about three years old.
 She is a client of the Regional Center.**

Physical Health: She needs assistance with her medication.

Food: She cannot prepare her own food.

Clothing: She needs help getting dressed and selecting appropriate clothes.

Shelter: She cannot find or maintain a place to live on her own.

GC-310 [Rev. July 1, 2009]

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR
 (Probate—Guardianships and Conservatorships)

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PETITION: ACCOUNT FOR RELATIVES

as defined in Probate Code section 2355(b).

10. ☐ **Temporary conservatorship**
 Filed with this petition is a *Petition for Appointment of Temporary Conservator* (form GC-111).

11. (Proposed) conservatee's relatives

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

- a. ☒ listed below.
 b. ☐ not known, or none are now living. (Proposed) conservatee's deemed relatives under Probate Code section 1821(b)(1)–(4) are listed below.

(1) Name and relationship to conservatee

Residence address

Required Relatives are all conservatee's relatives within the 1st and 2nd degree.

(5)

(6)

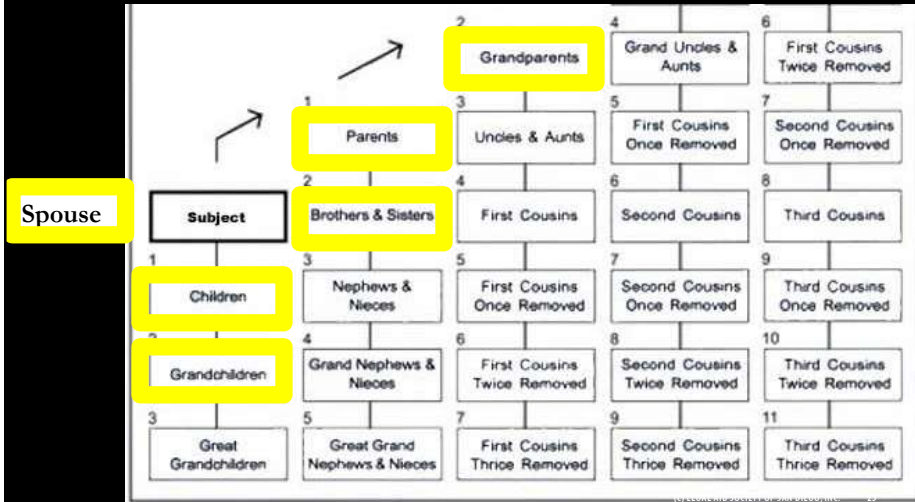
GC-310 [Rev. July 1, 2009]

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR
 (Probate—Guardianships and Conservatorships)

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1ST AND 2ND DEGREE RELATIVES



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GC-310

CONSERVATORSHIP OF (Name):		GC-310
CONSERVATEE		CASE NUMBER:

11. (Proposed) conservatee's relatives (continued)

Name and relationship to conservatee

Residence address

- (7) Jane Smith, paternal grandmother deceased
- (8) John Smith, father 123 Fake Street, San Diego, CA
- (9) Tom Smith, brother 123 Fake Street, San Diego, CA, age 14
- (10) No spouse
- (11) No children
- (12)
- (13)
- (14)
- (15)

☐ Continued on Attachment 11.

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REFERRAL INFORMATION AND LIST OF RELATIVES

- PR-020, local form
- Provides key investigation info for court investigators and court-appointed attorneys including:
 - Contact information—including day program
 - Language of the proposed conservatee
 - Safety information
 - Medications

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ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ FOR COURT USE ONLY

NAME: _____ TELEPHONE NO.: _____ FAX NUMBER: _____

STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____

MAILING ADDRESS: _____ CITY AND ZIP CODE: _____

SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

STREET ADDRESS: _____ CITY AND ZIP CODE: _____

MAILING ADDRESS: _____ CITY AND ZIP CODE: _____

ATTORNEY'S (OR PARTY'S) NAME: _____

CONFIDENTIAL SUPPLEMENTAL INFORMATION

1. a. Proposed conservatee (name): _____ b. Date of birth: _____ c. Age: _____

2. i. the person completing this form, am I (check each that applies) ☐ petitioner ☐ proposed conservator in this proceeding.

3. ☐ ABILITY TO PROVIDE PROPERLY FOR PERSONAL NEEDS* The following facts and circumstances supplement and support the petitioner's assertions that the proposed conservatee is unable to provide properly for personal needs for physical health, food, clothing, or shelter (specify in detail, expanding on the reasons in the petition; give specific examples from the proposed conservatee's daily life showing significant, ongoing behavior patterns):

a. Physical health (give examples showing the proposed conservatee's inability to move and exercise, maintain personal hygiene, make and attend routine medical appointments, take medication as prescribed, etc.):

☐ Continued in Attachment 3a.

b. Food (give examples showing the proposed conservatee's inability to eat or drink, prepare food, shop for food, etc.):

☐ Continued in Attachment 3b.

c. Clothing (give examples showing the proposed conservatee's inability to get dressed, do laundry, shop for clothing, etc.):

☐ Continued in Attachment 3c.

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CONFIDENTIAL SUPPLEMENTAL INFORMATION GC-312

- Confidential!
- Not public record.
- Can be requested by parties, those entitled to notice, and their attorneys. PC § 1821(a).
- Repeat why conservatorship is necessary and can add **CONFIDENTIAL** Info.
- SS number and DOB

CONFIDENTIAL (DO NOT ATTACH TO PETITION) GC-312

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NUMBER: _____ FOR COURT USE ONLY

NAME: _____ TELEPHONE NO.: _____ FAX NUMBER: _____

STREET ADDRESS: _____ CITY: _____ STATE: _____ ZIP CODE: _____

MAILING ADDRESS: _____ CITY AND ZIP CODE: _____

SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____

STREET ADDRESS: _____ CITY AND ZIP CODE: _____

MAILING ADDRESS: _____ CITY AND ZIP CODE: _____

ATTORNEY'S (OR PARTY'S) NAME: _____

CONFIDENTIAL SUPPLEMENTAL INFORMATION

1. a. Proposed conservatee (name): _____ b. Date of birth: _____ c. Age: _____

2. i. the person completing this form, am I (check each that applies) ☐ petitioner ☐ proposed conservator in this proceeding.

3. ☐ ABILITY TO PROVIDE PROPERLY FOR PERSONAL NEEDS* The following facts and circumstances supplement and support the petitioner's assertions that the proposed conservatee is unable to provide properly for personal needs for physical health, food, clothing, or shelter (specify in detail, expanding on the reasons in the petition; give specific examples from the proposed conservatee's daily life showing significant, ongoing behavior patterns):

a. Physical health (give examples showing the proposed conservatee's inability to move and exercise, maintain personal hygiene, make and attend routine medical appointments, take medication as prescribed, etc.):

☐ Continued in Attachment 3a.

b. Food (give examples showing the proposed conservatee's inability to eat or drink, prepare food, shop for food, etc.):

☐ Continued in Attachment 3b.

c. Clothing (give examples showing the proposed conservatee's inability to get dressed, do laundry, shop for clothing, etc.):

☐ Continued in Attachment 3c.

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CONSERVATORSHIP OF (name):	CASE NUMBER:
PROPOSED CONSERVATEE	

6. **ALTERNATIVES TO CONSERVATORSHIP** I have considered the following alternatives to conservatorship. For each alternative below, either (1) I have attempted that alternative for the length of time and in the manner described and have determined for the reasons explained below that it is unsuitable or does not meet the proposed conservatee's needs, or (2) I have not attempted that alternative and have determined for the reasons explained below that it is unsuitable or does not meet the proposed conservatee's needs and therefore should not be attempted.

a. A supported decisionmaking agreement, as defined in Welfare and Institutions Code section 21001

The Proposed Conservatee cannot create one

☐ Continued in Attachment 6a.

b. Designation of a health care surrogate under Probate Code section 4711

Inapplicable

☐ Continued in Attachment 6b.

c. An advance health care directive under Probate Code section 4600 et seq.

The Proposed Conservatee cannot create one

☐ Continued in Attachment 6c.

d. A power of attorney (general or limited, durable or nondurable) under Probate Code section 4000 et seq.

The Proposed Conservatee cannot create one

☐ Continued in Attachment 6d.

e. A trust, as defined in Probate Code section 82

The Proposed Conservatee cannot create one

☐ Continued in Attachment 6e.

f. Other alternatives considered or attempted

Insufficient to meet needs.

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CONFIDENTIAL SCREENING FORM (GC-314)

- Confidential!
- Only Court has access.
- Provides info to screen proposed conservators.
- If answer affirmatively to screening questions, use Attachment with explanation.

CONFIDENTIAL (DO NOT ATTACH TO PETITION)		GC-314
ATTORNEY OR PARTY SIGNING FOR OTHER PERSON (Name and Address)		JSP COURT USE ONLY
TELEPHONE NO. E-MAIL ADDRESS (Optional) ATTORNEY FID. NUMBER	FAX NO. (Optional)	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF		
STREET ADDRESS MAILING ADDRESS CITY AND ZIP CODE BRANCH NAME		CASE NUMBER
CONSERVATORSHIP OF (Name)	PROPOSED CONSERVATEE	HEARDING DATE AND TIME
CONFIDENTIAL CONSERVATORSHIP SCREENING FORM		DEPT:
Conservatorship of ☒ Person ☐ Estate ☐ Limited Conservatorship		
The proposed conservator must complete and sign this form. The person requesting appointment of a conservator must submit the completed and signed form to this court with the conservatorship petition. <i>This form must remain confidential.</i> How This Form Will Be Used This form is confidential and will not be a part of the public file in this case. Each proposed conservator must complete and sign a separate copy of this form under rule 7.1500 of the California Rules of Court. The information provided in this form will be used by the court and by the persons and agencies designated by the court to assist the court in determining whether to appoint the proposed conservator as conservator. The proposed conservator must respond to each item.		
1. a. Proposed conservator (name): b. Date of birth: c. Social security number: d. Driver's license number: e. Telephone numbers: Home: _____ Work: _____ State: CA f. Other: _____ 2. a. ☒ I am related to the proposed conservatee as (specify relationship): _____ years, _____ months. b. ☐ I have personally known the proposed conservatee for _____ years, _____ months. c. ☒ I was ☐ I was not nominated as conservator of the _____ person _____ estate of the proposed conservatee, by the _____ proposed conservatee. ☐ the spouse or registered domestic partner of the proposed conservatee. d. ☐ I am the spouse of the proposed conservatee. ☐ I have checked "I was," provide documentation in Attachment 3.) e. ☐ I am the spouse of the proposed conservatee. ☐ I have ☐ I have not filed for legal separation, dissolution of marriage, annulment, or adjudication of nullity of the marriage. (If you checked "I have," explain in Attachment 4.) f. ☒ I am not the spouse of the proposed conservatee. 3. a. ☐ I am the registered domestic partner of the proposed conservatee. ☐ I do not ☐ I do intend to terminate my domestic partnership with the proposed conservatee. (If you checked "I do," explain in Attachment 5.) b. ☐ I am a former domestic partner of the proposed conservatee. My domestic partnership with the proposed conservatee was terminated on (date): _____ (Explain circumstances in Attachment 5.) c. ☒ I am neither a current nor former domestic partner of the proposed conservatee. 4. a. ☐ I do not ☒ I do own money or have a financial obligation to the proposed conservatee. (If you checked "I do," explain in Attachment 6.) b. The proposed conservatee ☐ does ☐ does not own money or have a financial obligation to me.		

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CAPACITY DECLARATION

- GC-335
- Completed by Doctor
- Can complete caption and basic information for doctor first.
- Doctor completes the rest.
- Attendance at hearing on Petition should match.
- Doctor must sign, print name, date signature on page 1 and 3.
- Review before submitting!

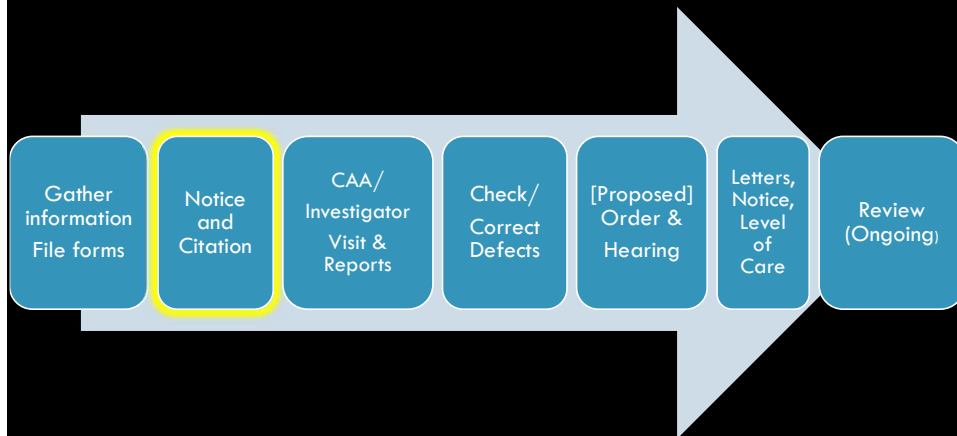
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DUTIES OF CONSERVATOR

- GC-348
- Important read for the proposed conservators!
- All proposed conservators sign that they received the Handbook.
- Clerk's office \$20
- Free online: <http://www.courts.ca.gov/documents/handbook.pdf>
- 318 pages

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ESTABLISHING A CONSERVATORSHIP



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CITATION PC § 1823, 1824

- Notice to the Proposed Conservatee.
- Judicial Council Form, GC-320 and a copy of the petition (GC-310) (also notice of case assignment).
- **At least 15 days** before the hearing.
- Personal service
- Regardless of proposed conservatee's understanding of the proceeding.
- File the Citation form with completed proof of service on page 3 (File again!).
- Must use the original stamped by the clerk!



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NOTICE OF HEARING PC § 1822

- Use Judicial Council form, GC-020
- Serve by Mail (GC-020 (P) – optional for personal service)
- **30 days:** Regional Center for limited conservatorships.
- **15 days (minimum):**
 - Living 1st and 2nd degree relatives
 - No notice to children under 12 if parent/guardian noticed or is the petitioner. PC § 1460.1

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NOTICE (CONTINUED)

- Due diligence search for missing relatives. Local form PR-182.
- File the Notice (GC-020) form with the completed POS on page 2.
- Alternative: signed waivers of notice by relatives entitled to notice

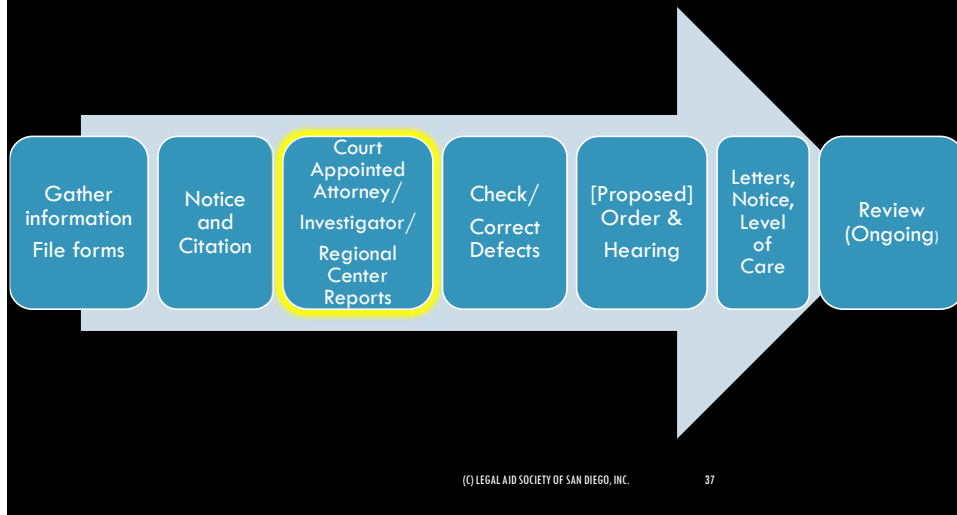


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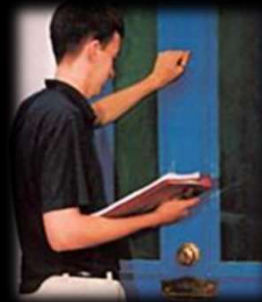
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COURT INVESTIGATOR PC § 1826 (LOOSELY)

- Court investigator visit and report:
 - Usually not for limited conservatorships of the person, until after it is granted.
- Can be unannounced.
- At least five days before the hearing, investigator files report and sends to proposed conservatee, Court appointed attorney, petitioner and noticed relatives.



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REGIONAL CENTER REPORT PC § 1827.5

- Must submit a confidential report to the court for all limited conservatorships.
- Recommendation on each of the seven powers.
- At least five days before the hearing, RC sends the report to the proposed conservatee, court appointed attorney, petitioner's attorney or petitioner.



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COURT-APPOINTED ATTORNEY FOR PROPOSED CONSERVATEE

- There is a Court Appointed attorney in all Limited Conservatorship Cases. See PC § 1470-1472.
- Represent the proposed conservatee's wishes (if their wishes can be determined).
- Must file report with the court.
- **Cost:** If Conservatee cannot afford to pay, the judge will order the County to pay.



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CHECK PROBATE EXAMINER NOTES

TRY TO CORRECT DEFECTS, IF ANY

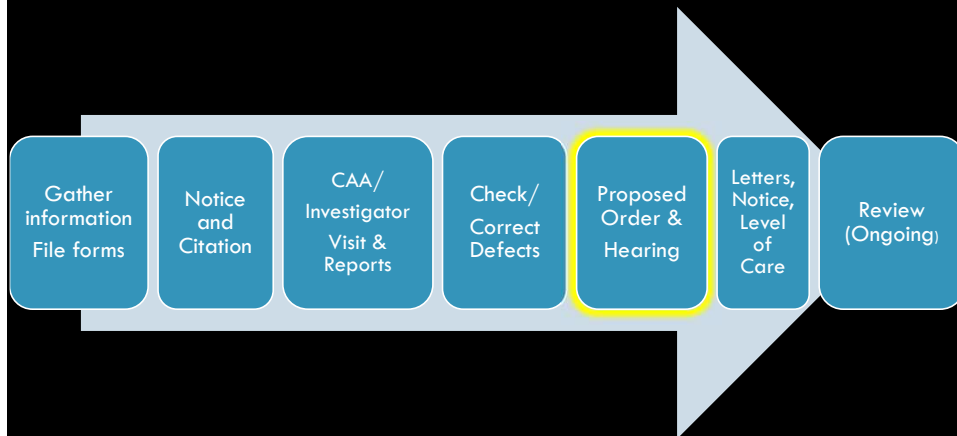
- Defects may cause delays
- Check Probate Examiner Notes online at:
www.sdcourt.ca.gov
- Submit an amendment or supplement to correct defects at least four days prior to the hearing. Or use local form PR-177.
- Some defects are not caused by Petitioner and cannot be fixed by Petitioner.
 - Resubmit confidential forms.
- Call, email, meet with a Probate Examiner if necessary.

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THE ORDER AND LETTERS

- [Proposed] Orders and Letters, GC-340 & GC-350
- Submitted Order coversheet, PR-162
- The Conservatorship Clinic will usually do this for you, but you must sign and date the GC-350
- Submit the GC-350 Letters at the same time if the proposed conservatee is 18 or older. If they are still 17, you cannot file the GC-350 until after their 18th birthday.
- GC-340 must be approved first, then GC-350, but sometimes they are approved on the same day

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THE HEARING

- May want to observe first.
- MS Teams or In Person.
- Request priority if necessary.
- Best to bring your forms.
- Judge may ask questions.
- Conservatee should appear in court, *unless doctor excused*.
- Defects—waived or continuance.
- Objections—continuance.

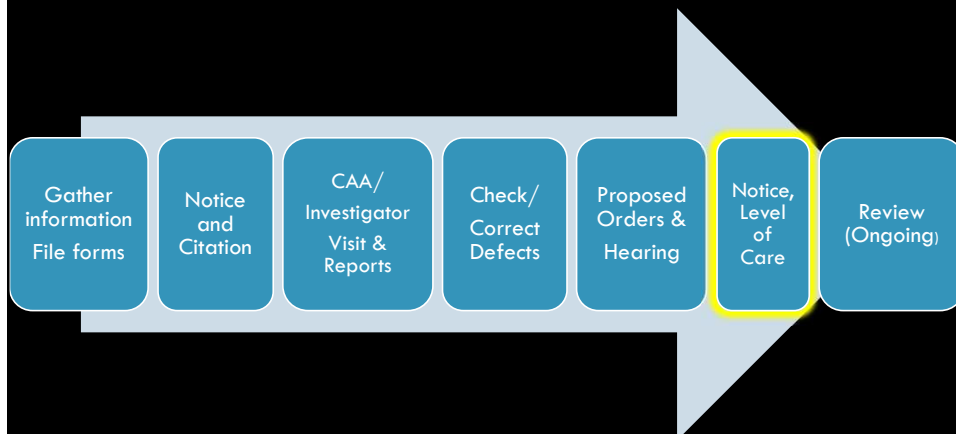


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NOTICE OF CONSERVATEE'S RIGHTS

- GC-341
- Within **30** days of appointment: **Conservator** mails Notice (GC-341) with copy of the Order (GC-340) to:
 - Conservatee
 - Court appointed attorney
 - Noticed 1st/2nd degree relatives
 - Regional Center (Limited)
- File with the court.



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APPROPRIATE LEVEL OF CARE

- See PC § 2352.5.
- Determination of Conservatee's Appropriate Level of Care, GC-355 – this form does NOT need to be served. It must be filed. It is needed for possible future review hearings.
- Within **60 days** of appointment.
- Details on the care needed to maintain the conservatee in his/her residence.
- File at Probate Business Office.



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REVIEW HEARING

- May receive correspondence from the court for Failure to Perform Duties
- Review hearing may be set if forms GC-341 and GC-355 are not filed, or for any case concerns (for example APS called)



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PROOF OF CONSERVATORSHIP

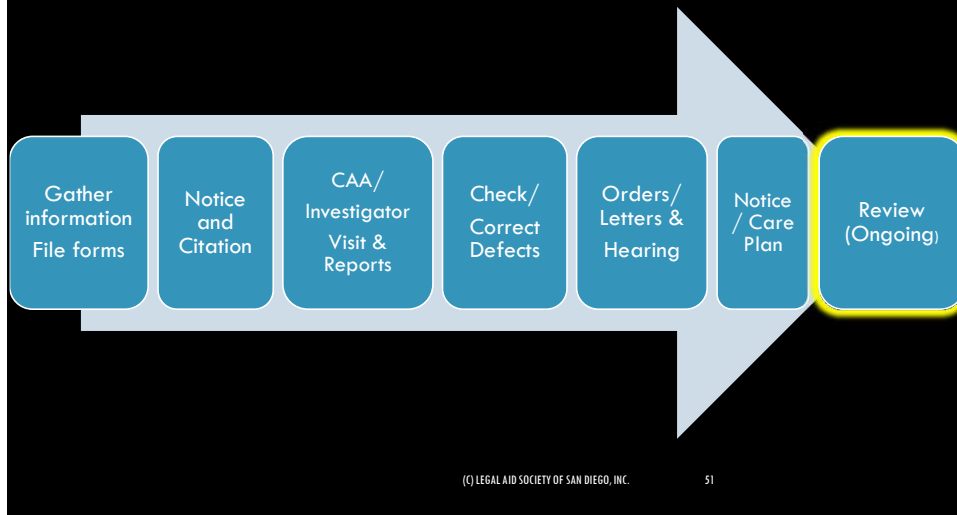
- The Letters of Conservatorship (GC-350) are proof of conservatorship.
- Give copy to schools, doctors, hospitals, pharmacies, insurance, post office, other government offices...
- May want certified copies.
 - \$25/each.
 - Free with Fee Waiver.



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COURT INVESTIGATOR, REVIEW HEARINGS, PC §1850-1851

- Court investigator assessments periodically.
 - At approximately one year and then every other year.
- If issue, court will set for a review hearing.



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ADDRESS CHANGES PC § 2352

- Within 30 days file notice of conservatee move within CA. (GC-080)
- 15 days **advance** notice if conservatee moves out of “own home” within CA. (GC-079)
- Petition/hearing required to move conservatee out of CA.
 - Interstate transfer process for general conservatorships (not Limited).
- Keep conservator’s address current with the court too. Form MC-040.



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MORE INFO...

- Refer to the handbook for guidance.
- [Handbook for Conservators \(ca.gov\)](https://www.ca.gov/handbook-for-conservators)
- Annual photo of the conservatee.
 - PC § 2360



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REMOVAL OF CONSERVATOR

- See PC § 2650-2655.
- Felony conviction.
- Gross immorality.
- Conflict of interest.
- Insolvency/bankruptcy (estate cases).
- Divorce. PC § 1813(b)
- Failure/incapacity to perform duties.
- Failure to file inventory or accounting (estate cases).
- Any other grounds court finds it in the conservatee's best interests.



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TERMINATION OF CONSERVATORSHIP

- PC §1860-1863
- Ends at death of the conservatee or order of the court. Form GC-399 for death.
- The Petitioner or Conservatee could petition to terminate the conservatorship, form PR-187.
- If a Conservator dies, remaining co-conservator can seek amended letters – PC 2105, or a new petition (same case number) to add conservators



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QUESTIONS



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