

**Monitoring and Enforcing the Reporting  
Requirements of Guardians and  
Conservators**

**Final Report of the Policy and Planning  
Committee to the Judicial Council**

**April 23, 2007**

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## **(1) Introduction.**

The district court appoints about 400 guardians and conservators annually. Research by the Utah State Bar Committee on Law and Aging shows that a minority<sup>1</sup> of them complete the reports required by statutes and rules. Subsequent research by the Administrative Office of the Courts confirms that. The low reporting rate itself and discussions with clerks show that the district court is not monitoring or enforcing the reporting requirements.

To develop these recommendations, the Policy and Planning Committee researched the programs of Alaska and Arizona and worked with representatives of the Bar, the AOC, clerks, and professional guardians and conservators. However, these recommendations have not been widely vetted among judges, clerks, lawyers and professional fiduciaries. The Committee shared its working drafts with representatives of these groups and encouraged input, but, because of the urgency identified by the Judicial Council, time did not permit the normal steps of formal presentation and review.

With one exception, we recommend no statutory changes at the current time.<sup>2</sup> Although the Committee discovered several areas in which the statutes are unclear and need attention, our focus remained on developing a program for enforcing the current requirements. If a statute leaves policy decisions to the courts, we have addressed those decisions, sometimes changing the policy, by court rule.

The Judicial Council will study probate law and procedures during 2007 and 2008. That study should include the law and procedures for guardians and conservators. This report identifies and sometimes details issues presented by statutes that should be considered in that effort. There are areas in which the Committee might have made different recommendations had it not been constrained by the current statutes. There are issues on which the statutes are silent or unclear.

## **(2) Nature of the fiduciary's office.**

Although the recommendations in this report deal with post-appointment reporting by guardians and conservators, a brief description and comparison of the offices may be helpful.

### **(a) Conservator.**

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<sup>1</sup> Precise figures are difficult because a parent appointed as guardian or conservator need not file the annual reports, and the current case management system does not differentiate a parent from any other guardian or conservator. Research shows very low reporting activity for the last several years, but, because parents are included in those figures, the research over-estimates non-reporting. Consequently, we do not quantify the research results in this report.

<sup>2</sup> The Committee recommends that the fee for filing an accounting be repealed. See page 6.

The district court appoints a conservator for a minor “if the court determines that [the] minor owns ... property that requires management or protection which cannot otherwise be provided, has ... business affairs which may be jeopardized ... by minority, or that funds are needed for the minor's support and education and protection is necessary or desirable to obtain or provide funds.” §75-5-401(1).

The court appoints a conservator for an adult “if the court determines that the person:

(a) is unable to manage [his or her] property and affairs effectively for reasons such as mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, confinement, detention by a foreign power, or disappearance; and

(b) has property which will be wasted or dissipated unless proper management is provided or that funds are needed for the support, care, and welfare of the person or those entitled to be supported by the person and protection is necessary or desirable to obtain or provide funds.”

§75-5-401(2).

A conservator has the authority “to invest and reinvest funds of the estate as would a trustee.” §75-5-424(2).

**(b) Guardian of an adult.**

The district court appoints a guardian for an adult “if it is satisfied that the person ... [is impaired by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause, except minority, to the extent of lacking sufficient understanding or capacity to make or communicate responsible decisions] and that the appointment is necessary or desirable as a means of providing continuing care and supervision of the incapacitated person.” §75-1-201(22); §75-5-304(1).

While the conservator’s responsibility is entirely financial – managing the ward’s estate – the guardian’s responsibility includes care for the ward’s person and care for the ward’s property. In a full guardianship, “the guardian has the same powers, rights, and duties respecting the ward that a parent has respecting the parent’s unemancipated minor child....”

(a) “[T]he guardian is entitled to custody of the person of the ward and may establish the ward's place of abode....

(b) [T]he guardian shall provide for the care, comfort, and maintenance of the ward and, whenever appropriate, arrange for the ward’s training and education.

(c) [T]he guardian shall take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects and commence protective proceedings if other property of the ward is in need of protection.”

(d) The guardian may give certain consents that may be necessary.

§75-5-312.

Some of the guardian's authority depends on the circumstance of whether a conservator has been appointed. If the court appoints a conservator, the conservator bears all or nearly all of the financial responsibilities. If the court does not appoint a conservator, the guardian has some financial responsibilities. "If no conservator ... has been appointed, the guardian may: (i) institute proceedings to compel any person under a duty to support the ward or to pay sums for the welfare of the ward to perform that duty; or (ii) receive money and tangible property deliverable to the ward and apply the money and property for support, care, and education of the ward...." §75-5-312(2)(d).

If there is no conservator, the guardian must account for the ward's estate. §75-5-312(2)(e).

**(c) Guardian of a minor.**

According to §75-5-201(1)(a), a person becomes a guardian for a minor in one of three ways: "by acceptance of a testamentary appointment, through appointment by a local school board under Section 53A-2-202, or upon appointment by the court." When can the district court appoint a guardian for a minor? "The court may appoint a guardian for an unemancipated minor if all parental rights of custody have been terminated or suspended by circumstances or prior court order." §75-5-204.

The district court commonly appoints a guardian for a minor in four circumstances, two of which fall outside the court's statutory authority. The court appoints:

- (a) a guardian for a decedent's minor child as part of probate or intestate proceedings;
- (b) a guardian for a minor to receive payment after a judgment or settlement for the wrongful death of the minor's parents;
- (c) the parent of a minor as guardian because an insurance company or other payor refuses, without an appointment order, to pay a judgment or settlement to the parent for the minor's injuries; and
- (d) a guardian for a minor to enable the child of a non-resident parent to attend a Utah school.

In the first two circumstances, the parents have died and thus their rights have been terminated by circumstances. In the last two, however, the parents' custodial rights have not been terminated or suspended.

The court commonly appoints a parent of a minor as guardian because a payor refuses, without an appointment order, to pay a judgment or settlement to the parent for the minor's injuries. The Uniform Utah Probate Code protects the payor if the payment – up to \$10,000 per year – is made to "any person having the care and custody of the

minor with whom the minor resides.” §75-5-102(1)(b). If the payor needs protection because the payment is more than \$10,000 per year, or if the payor wants the assurance of paying a court-appointed fiduciary, the court, comparing the conditions in §75-5-204 and §75-5-401(1), should appoint the parent as conservator for the minor, not guardian.

The court also commonly appoints a guardian for a minor to enable the child of a non-resident parent to attend a Utah school, but, under §75-5-201, §75-5-204 and §53A-2-202, the school board, not the district court, should make the appointment.<sup>3</sup>

### **(3) Post-appointment reporting requirements.**

A conservator must file an inventory of the ward’s estate within 90 days after appointment. §75-5-418. A conservator must annually file an accounting of the ward’s estate. §75-5-417(2). If the court does not appoint a conservator, the guardian of an adult must annually file an accounting of the ward’s estate. §75-5-312(2)(e)(ii). We propose in CJA 6-501(6)(D), that the guardian also file the inventory, if there is no conservator. The guardian of an adult must annually file a report on the ward’s status. §75-5-312(2)(e)(iii). The guardian of a minor must annually file the same reports as the guardian of an adult, but this requirement is imposed by CJA 6-503 rather than by statute. A parent appointed as guardian or conservator is exempt from the reporting requirements. §75-5-312(2)(e)(vi); §75-5-417(5). The statute directs the district court to examine and approve the reports. §75-5-312(2)(e)(ii); §75-5-417(2).

### **(4) Monitoring and enforcing the reporting requirements.**

Our recommended program consists of four primary components:

- (1) Establish uniform policies.
- (2) Establish uniform procedures.
- (3) Develop tools and training for clerks and judges.
- (4) Develop tools and training for guardians and conservators.

#### **(a) Establish uniform policies.**

##### **(i) Repeal the fee for filing an annual accounting.**

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<sup>3</sup> “A person becomes a guardian of a minor by acceptance of a testamentary appointment, through appointment by a local school board under Section 53A-2-202, or upon appointment by the court.” §75-5-201. “The court may appoint a guardian for an unemancipated minor if all parental rights of custody have been terminated or suspended by circumstances or prior court order.” §75-5-204. “A local board of education may adopt a policy permitting it to designate a responsible adult residing in the school district as legal guardian of a child whose custodial parent or legal guardian does not reside within the state...” §53A-2-202(2). The AOC is working with the Attorney General’s Office and the Office of Education to address the matter in the 2008 General Session.

Currently, there is no fee to file the annual report on the status of the ward, and there should be none for filing the annual accounting. The current fee is based on the value of the estate. “The fee for filing any accounting required by law is:

- (i) \$10 for an estate valued at \$50,000 or less;
- (ii) \$20 for an estate valued at \$75,000 or less but more than \$50,000;
- (iii) \$40 for an estate valued at \$112,000 or less but more than \$75,000;
- (iv) \$80 for an estate valued at \$168,000 or less but more than \$112,000; and
- (v) \$150 for an estate valued at more than \$168,000.”

§78-7-35(1)(q).

Because the fee is paid from the estate, it represents money, however small the amount, that would otherwise benefit the ward. The courts charge the normal filing fee for the petition to appoint the guardian or conservator. That fee should include post-appointment activity. The fee generates only modest revenue:

Estate Value	Fee	FY00	FY01	FY02	FY03	FY04	FY05	FY06
\$50,000 or Less	\$10	\$660	\$780	\$580	\$740	\$780	\$593	\$430
\$50,000-\$75,000	\$20	\$440	\$640	\$660	\$680	\$540	\$610	\$660
\$75,000,-\$112,000	\$40	\$1,240	\$1,080	\$1,320	\$1,400	\$1,000	\$740	\$990
\$112,000-\$168,000	\$80	\$1,393	\$2,050	\$1,810	\$2,770	\$2,640	\$2,320	\$2,320
More Than \$168,000	\$150	\$14,100	\$16,300	\$13,800	\$14,550	\$12,650	\$10,240	\$12,160
TOTAL		\$17,833	\$20,850	\$18,170	\$20,140	\$17,610	\$14,503	\$16,560

**(ii) In the appointment process, better distinguish between the need for a guardian and the need for a conservator.**

The office of guardian and the office of conservator are different, with different authority and different responsibilities. While a conservator “... invest[s] and reinvest[s] funds of the estate as would a trustee,” §75-5-424(2), the guardian “... must exercise care to conserve any excess for the ward’s needs.” §75-5-312(2)(d)(ii). The standard to which a conservator will be held in managing an estate is substantially higher than what is expected of a guardian. A person appointed to one office does not assume the other by operation of law but only by appointment. If the court does not appoint a conservator, the guardian assumes some of the conservator’s responsibilities, but not the office itself.<sup>4</sup> The guardian assumes all of those responsibilities – and liabilities – if appointed as conservator.

The Probate Code blends the two offices too much. As a result, judges and lawyers may not fully understand the remaining differences, and the clerks report that a person appointed as guardian is commonly appointed as conservator as well. One can only

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<sup>4</sup> In one circumstance, a conservator assumes the responsibilities of a guardian. “[A] conservator of the estate of an unmarried minor as to whom no one has parental rights, has the duties and powers of a guardian of a minor described in Section 75-5-209 until the minor attains majority or marries.” §75-5-424(1).

assume that the person being appointed understands the higher standard of a trustee to which s/he will be held.

**(iii) Exempt the guardian of a minor from reporting requirements under certain circumstances.**

The committee recommends that a guardian of a minor be exempt from two of the annual filing requirements. The guardian of a minor should not be required to file:

- (1) the annual accounting of the minor's estate if the estate is deposited in a court-guarded account, requiring a judge's approval to withdraw funds or if there is no estate; or
- (2) the annual report on the status of the minor if the appointment is a limited guardianship for the purpose of attending school.

The Probate Code delegates to the judge and to court rule whether to require the guardian of a minor to file an annual status report or an annual accounting. §75-5-209(3)(i). Rule 6-503, which governs the annual reports of guardians, does not expressly require the guardian of a minor to file these two reports, but neither does it exempt the guardian of a minor.

An annual accounting protects the minor's estate for his or her eventual benefit. If the guardian deposits the estate in an court-guarded account, the estate is sufficiently protected. There is no need for the accounting, unless one is requested by an interested person. The court should require a representative of the financial institution to acknowledge that the account requires court approval for withdrawals. The guardian of a minor should file the annual accounting if the guardian has access to the minor's estate. If there is no estate, there is no purpose to the report, and it should not be required.

The guardian of an adult or a conservator who deposits the ward's estate into a court-guarded account (or if the estate is zero) is in a situation similar to the guardian of a minor. However, the Probate Code does not permit the discretion to exempt the guardian of an adult or a conservator from the reporting requirements. §75-5-312(2)(e)(i); §75-5-417(2).

To remove a burden that may discourage some from taking the appointment, a guardian appointed for school attendance should be exempt from filing the annual status report. If a parent is appointed as guardian or conservator, the parent is already exempt from the annual reporting requirements. §75-5-312(2)(e)(vi); §75-5-417(5). In school attendance appointments, the parent is still involved in the child's life. School teachers, coaches and counselors will have frequent contact with the child. These frequent, sometimes daily contacts will serve to protect the child more than an annual report. The judge continues to have the discretion to order a report upon the request of an interested person.

**(iv) Periodically select annual accountings for review.**

The statutory model for protecting Utah's wards is common to many states: give notice of financial and status reports to those who are interested in the ward and allow them to object. If anyone does object, the court will conduct proceedings to decide the competing claims. If no one objects, the court is left on its own, which usually means the report is approved.

As a model, relying on the interests of others to protect the ward has weaknesses. Negligent and fraudulent misappropriation of money may occur without it being obvious in the reports. Those who are interested in the ward may themselves participate to defraud the ward. Perhaps no one, other than the fiduciary, has an interest in the ward. The Committee recommends, therefore, that the court periodically select accountings to be reviewed for errors or fraud.<sup>5</sup> Similar to tax audits, knowing that the accounting might be reviewed, the fiduciary is less likely to engage in improper activities in the first place.

The Committee spent more time on this than on any other single issue. Our goal is to provide reasonable assurance that the accounting is correct without unduly burdening the estate. We considered reviewing every accounting, every accounting over \$50,000, and every accounting not professionally prepared, before settling on this recommendation.

The Bar, certified public accountants and the AOC should work collaboratively to recruit committed volunteers to review accountings. While no accounting should be exempt from review, the court might give higher priority to those that have not been prepared professionally and those for which there are no interested persons to be served. If selecting accountings for review by volunteers shows a greater problem than can be handled by volunteers, the Judicial Council should consider requesting legislative funding for a more formal program.

The Probate Code requires that the judge approve the accountings, and approval carries significant consequences. "[A]n order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to [the conservator's] liabilities concerning the matters considered in connection with this account...." §75-5-419. The same is true of a final accounting.

Neither judges nor clerks have the skills or the time to review the accounting, yet approving it relieves the fiduciary of civil liability. Presumably, the fiduciary would remain liable for an improper transaction hidden or not reported in the accounting, but the transaction may not be discovered for many years, and, regardless of when it is discovered, there may not be an effective remedy.

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<sup>5</sup> Alaska and Arizona have established governmental agencies to license and regulate professional fiduciaries and to audit sample reports of private and professional fiduciaries. In Alaska, the agency is in the executive branch of government, similar to the Utah Department of Occupational and Professional Licensing. In Arizona, the agency is attached to the Supreme Court.

A “review” is defined by statute<sup>6</sup> and is much more limited in scope than an audit. From its definition, a review should be sufficient to provide the court with a reasonable degree of assurance that the accounting is proper.

If the fiduciary is bonded or if the accounting is prepared by a licensed fiduciary, a certified public accountant or a lawyer, the ward is protected against losses by different means. If the fiduciary is bonded, the ward is protected by the bond. Professional fiduciaries are regulated by Title 7, Chapter 5, Trust Business (Conservators) and §75-5-311(1)(a) (guardians), and the statutory requirements should be sufficient to protect the ward without a review. A lawyer or CPA will have the opportunity while preparing the accounting to review the estate for errors by the fiduciary and will be protected against any personal errors by malpractice insurance.

**(b) Establish uniform procedures.**

This section discusses the issues that happened to come to light during our research. There probably are others that did not surface. As the courts discover divergent procedures, judges, clerks, lawyers and the AOC, as appropriate, should develop a uniform approach.

**(i) Valuation of an estate; “Full” and “informal” accounting.**

Currently, §75-5-312 and §75-5-417 provide that if the ward owns his or her residence, the value of the residence is not included in calculating the value of the estate. What is sometimes lost in applying those statutes is that the guardian or conservator must still account for the residence. If the value of the estate (omitting the residence) is more than \$50,000, the guardian or conservator must file a “full” accounting. If the estate is less than \$50,000, the guardian or conservator may file an “informal” accounting.

Perhaps excluding the ward’s residence from the value of the estate was needed to reduce the filing fee because there is no explainable difference between a full and an informal accounting. At least the statutes do not explain the difference. Presumably, the informal accounting is a summary account, but one cannot prepare a summary until one has prepared a detailed account.

The Committee recommends eliminating the distinction between a full and an informal accounting. There may be some temporary confusion until the statutes are amended, but requiring more detail in any accounting is within the court’s authority. §75-5-312(2)(e)(ii); §75-4-5-417(2). The forms that we have developed as part of the

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<sup>6</sup> “Review of financial statements’ means performing inquiry and analytical procedures which provide a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the statements in order for them to be in conformity with generally accepted accounting principles or, if applicable, with another comprehensive basis of accounting; and, the issuance of a report on the financial statements stating that a review was performed in accordance with the standards established by the American Institute of Certified Public Accountants.” §58-26a-102(17).

implementation effort will help guide the guardian or conservator through the reporting process, so more detail does not necessarily mean an additional burden. The additional detail is needed for an accountant, an interested person, or the court to understand the transactions in the estate.

Even without the distinction between a full and an informal accounting, if the ward's estate is limited to payments from a state or federal agency that requires an annual accounting, the fiduciary may still file a copy of the agency's form rather than the court's form. §75-5-312(2)(e)(ii). And a corporate fiduciary may still file its internal report, rather than the court's form, in any circumstances. §75-5-312(2)(e)(iii); §75-5-417(3).

**(ii) Petitioning.**

Corporate fiduciaries need not "fully petition" the court. §75-5-312(2)(e)(iii); §75-5-417(3). Private fiduciaries, by inference, are required to do so. The statutes do not explain the difference. A petition is inappropriate in any event, that being one of the documents by which a civil case is begun, and the status report and accounting are not the initial events in the case. The Committee recommends dispensing with the concept of petitioning the court to approve the report on the status of the ward or the accounting. In our proposed amendments to Rule 6-501, the financial and status reports will simply be filed.

**(iii) Hearings.**

The Third District Court uses the statutory mark of \$50,000 as the line to determine whether to hold a hearing. In estates of less than \$50,000, the court does not hold a hearing unless there is an objection. In estates of more than \$50,000, the court holds a hearing regardless. There is little purpose to a hearing unless there is an objection. Whatever examination of the accounting the court conducts, it is as easily done without a hearing. Hearings cost the court and the parties time and money, which should not be spent without good reason. If the court discovers an item about which it has questions, the court has the discretion to hold a hearing even without an objection.

**(iv) Full faith and credit.**

Third District Court honors out-of-state appointments of conservators but not of guardians. In the former, the court registers the out-of-state order and letters. The filing fee is \$25. In the latter, the person has to petition for a new appointment. The filing fee is \$155.

Section 78-22a-2(2) requires full faith and credit to the judgments and decrees of other states. Nothing in that statute or elsewhere creates an exception for guardianships.

Section 75-5-201(2) states: "A document issued by other than a court of law which purports to award guardianship to a person who is not a legal resident of the jurisdiction

in which the guardianship is awarded is not valid in the state of Utah until reviewed and approved by a Utah court.” By negative implication, the statute recognizes the appointment of a guardian by a court of another state.

Section 75-5-432 permits a foreign conservator to register an out-of-state appointment in Utah to exercise the powers of a conservator with respect to Utah property. There is no counterpart for a foreign guardian. However, this section addresses the authority of an out-of-state conservator in Utah, not the issue of establishing an in-state conservatorship under full faith and credit.

Under §78-22a-2(2), the district court should register guardianship and conservatorship decrees of the courts of other states just as they would any other foreign court judgment.

**(v) Waiver of final accounting.**

To terminate an appointment, the conservator must account to the court, the ward or the ward’s personal representative. §75-5-419. The statutes do not expressly permit the final accounting to be waived, and it may not be a wise thing to do, but rights usually can be waived by the one who possesses them. In this circumstance, that person is the ward or the ward’s personal representative. The ward might waive the final accounting because the only rights affected are the ward’s own. The personal representative has the authority of a trustee, §75-3-703, and a trustee probably has the authority to waive the final accounting. §75-7-814. (Although waiver is not expressly listed among the trustee’s powers, §75-7-814 is a very broad statement of discretion in the trustee.) The personal representative may incur personal liability by waiving the final accounting because a trustee must “make a reasonable effort to verify facts relevant to the investment and management of trust assets,” §75-7-902, but that issue would be resolved in probating the ward’s will or in proceedings for intestate succession.

**(c) Develop tools and training for clerks and judges.**

**(i) Track cases with CORIS.**

Programmers at the AOC are working to modify CORIS to better monitor the reporting requirements and to better support the clerks and judges in processing the reports and delinquent notices. The clerks should flag in CORIS those appointments in which the fiduciary need not file annual reports:

- (a) A parent is exempt from all annual reports.
- (b) A guardian appointed for school-attendance is exempt from the annual status report.
- (c) A guardian for a minor whose estate is zero or is deposited in a court-guarded account is exempt from the annual accounting.

The clerks should use CORIS to identify fiduciaries who are delinquent in their reports and to prepare notices and other documents to bring the fiduciaries into compliance:

#### Deadline Summary

Day	Action
0	Appointment
0-89	Inventory may be filed (Conservator)
90	Inventory due (Conservator)
90+14	Courtesy letter
90+30	Order to show cause
90+60	Contempt
365	Annual report period closes
365+1	Report may be filed (Guardian & Conservator)
365+60	Report due (Guardian & Conservator)
425+14	Courtesy letter
425+30	Order to show cause
425+60	Contempt

The clerks and judges should use the notices and orders prepared by CORIS to schedule a hearing, if needed, and to process and approve the reports.

#### **(ii) Clerk positions.**

Although the Committee has worked with clerks and AOC staff to make monitoring and enforcement as efficient as possible, any work required of clerks is work that is not now being done. By comparing the functions required in guardianship and conservatorship cases with similar functions in other cases in the clerical weighted caseload formula, we estimate that the effort to bring existing cases current will require about 5.5 clerks statewide working for about one year. We recommend that the Council fund what it can with one-time money identified in April, 2007. However, there are too many unknowns to estimate the continuing workload. We propose to use the experience during the temporary effort to better estimate continuing demands.

#### **(iii) Training for clerks and judges.**

The Judicial Institute should develop training for clerks and judges on monitoring and enforcing the post-appointment reporting requirements for guardians and conservators.

#### **(d) Develop tools and training for guardians and conservators.**

Successfully enforcing future reporting requirements depends on the tools we provide to fiduciaries and the training to use those tools. This section outlines the components for that objective. Successfully bringing existing guardians and conservators into compliance depends on the tools and training and on working closely

with individual fiduciaries. Guardians and conservators will be caught by surprise and understandably angry if all they see is a letter demanding that they file their reports for the last several years. The next section outlines the components for bringing existing guardians and conservators into compliance.

**(i) Training and testing.**

Before appointment, private guardians and conservators, but not professionals licensed by the state, should pass an examination in the rights and responsibilities of a fiduciary. The Judicial Institute and the Bar should develop the examination and a training course that is widely available at no cost to the guardian or conservator. Since parents and guardians appointed for school attendance are exempt from all or most reporting requirements, they should be exempt from the test requirement as well.

**(ii) Forms.**

Attached to this report are several forms. The content is based on a variety of sources. We recommend an interactive web interview to produce the forms for guardians and conservators, but, recognizing that the internet may be an obstacle to some fiduciaries, we recommend that the forms be available in a fill-in-the-blank format as well. The AOC should make the forms widely available. CORIS should prepare the forms for clerks and judges.

**(iii) Internet.**

The Information Services Department of the AOC should develop an interactive web interview in which guardians and conservators can answer questions, rather than fill out forms. By answering the questions, the application would open some decision paths and close others. The finished product would be a PDF file that the guardian or conservator would save, print, file with the court, and serve on others. A web-based interview would be widely available and uniform. Its internal editing would ensure that the arithmetic in an accounting is correct, saving the clerks from at least that task.

**(iv) Manual.**

The Policy and Planning Committee has developed, in conjunction with the Utah State Bar Committee on Law and Aging, a manual entitled *Basic Guidelines for Court-Appointed Guardians and Conservators*. Although only a primer, the manual will give fiduciaries sound information and advice on their responsibilities after the appointment. The AOC should make the manual widely available.

**(5) Bring existing cases into compliance.**

Any new appointment should comply with the requirements of the Probate Code and Rule 6-501.

Clerks should work as expeditiously as possible to bring existing cases into compliance.

Priority 1: Differentiate the caseload. Identify active cases in which reports are required.

- (a) Is the case still active?
  - (i) Communicate with the fiduciary and with the last lawyer of record. Is the ward alive? A minor? Incapacitated? An in-state student? Terminate the appointment if the grounds for the appointment cease to exist.
- (b) Is the fiduciary the parent of the ward? Flag for no reporting.
- (c) Is the fiduciary the guardian of a minor?
  - (i) Is the guardian appointed for school attendance? Flag for no status report.
  - (ii) Is the estate in a court-guarded account? Flag for no accounting.
  - (iii) Is the estate zero? Flag for no accounting.
- (d) Is the fiduciary the guardian of a minor who is not exempt or of an adult? Flag for the proper report(s).
- (e) Is the fiduciary a conservator? Flag for the proper report.

Priority 2: The training and testing described above should be offered to existing guardians and conservators.

(a) The clerks should encourage existing guardians and conservators to attend the training class and complete the test. The class will help communicate to the fiduciaries the obligations they bear and the reasons for them. The AOC should prepare an information package to explain the court's plan for bringing delinquent reports up to date. Information and communication are essential for obtaining the fiduciary's cooperation to bring delinquent reports up to date.

Priority 3: Conservatorships. Bring the inventory and accounting up to date.

- (a) Notify conservators of the requirements, the reasons for the requirements and the court's efforts to comply with statutes. Work closely with individual conservators.
- (b) Has the inventory been filed?
- (c) If not, file the inventory to show the property on hand as of the date of appointment. Also file an accounting that shows the current estate. If a strict tracking of all assets and obligations is not possible, report at least a narrative that shows the interim estate activity. The judge should exercise discretion to decide whether the report is sufficient or whether there is a need for more detail. Annual accountings thereafter.
- (d) If yes, file one accounting to cover the period from the inventory or from the last accounting, whichever is later. If a strict accounting of all assets and obligations is not possible, report at least a narrative that shows the interim estate activity. The judge should exercise discretion to decide whether the report is sufficient or whether there is a need for more detail. Annual accountings thereafter.

Priority 4: Guardianships of an adult. Bring the accounting and status reports up to date.

(a) Notify guardians of the requirements, the reasons for the requirements and the court's efforts to comply with statutes. Work closely with individual guardians.

(b) File a status report for the whole period, regardless of the length of the period. Annual reports thereafter.

(c) The proposed amendment to CJA 6-501 requires the guardian to file an inventory of the ward's estate if there is no conservator. However, guardians appointed before that amendment are not required to file an inventory. Consequently, require an accounting for the whole period, regardless of the length of the period. If a strict accounting of all assets and obligations is not possible, report at least a narrative that shows the interim estate activity. The judge should exercise discretion to decide whether the report is sufficient or whether there is a need for more detail. Annual accountings thereafter.

Priority 5: Guardianships of a minor. Bring the accounting and status reports up to date.

(a) Same as for accounting and status reports in guardianships of an adult.

1 Repeal Rule 6-503, 6-504 and 6-505.

2 Rule 6-501. Reporting requirements for guardians and conservators.

3 Intent:

4 To establish the requirements sufficient to satisfy the Utah Uniform Probate Code.

5 Applicability:

6 This rule applies to guardians and conservators with the following exceptions:

7 This rule does not apply if the guardian or conservator is the parent of the ward.

8 Paragraph (1) does not apply to the guardian of a minor if the guardianship is limited  
9 to the purpose of attending school.

10 Paragraph (1) does not apply to a conservator licensed under the Title 7, Chapter 5,  
11 Trust Business or to a guardian licensed under §75-5-311(1)(a).

12 Paragraphs (6)(A), (6)(B) and (6)(C) do not apply to the guardian of a minor if the  
13 guardianship is limited to the purpose of attending school. A person interested in the  
14 minor may request a report under Utah Code Section 75-5-209.

15 Paragraph (6)(D) does not apply to the guardian of a minor if the minor's estate is  
16 deposited in an account requiring judicial approval for withdrawal or if there is no estate.  
17 A person interested in the minor may request an accounting under Utah Code Section  
18 75-5-209.

19 Statement of the Rule:

20 (1) Before entering an order appointing a guardian or conservator, the court shall  
21 require the guardian or conservator to file a verified statement showing satisfactory  
22 completion of a court-approved examination on the responsibilities of a guardian or  
23 conservator.

24 (2) The guardian shall keep contemporaneous records of significant events in the life  
25 of the ward and produce them if requested by the court. The conservator shall keep  
26 contemporaneous receipts, vouchers or other evidence of income and expenses and  
27 produce them if requested by the court. The guardian and conservator shall maintain  
28 the records until the appointment is terminated and then deliver them to the ward, if  
29 there is no successor, to the successor guardian or conservator, or to the personal  
30 representative of the ward's estate.

31 (3) Definitions.

32 (3)(A) "Accounting" means the annual accounting required by Utah Code Section 75-  
33 5-312 and Section 75-5-417 and the final accounting required by Utah Code Section 75-  
34 5-419.

35 (3)(B) "Interested persons" means the ward, if he or she is of an appropriate age and  
36 mental capacity to understand the proceedings, the ward's guardian and conservator,  
37 the ward's spouse, adult children, parents and siblings and anyone requesting notice  
38 under Utah Code Section 75-5-406. If no person is an interested person, then interested  
39 person includes at least one of the ward's closest adult relatives, if any can be found.

40 (3)(C) "Inventory" means the inventory required by Utah Code Section 75-5-418.

41 (3)(D) "Serve" means any manner of service permitted by Utah Rule of Civil  
42 Procedure 5, but the envelope containing the papers shall include the designation that  
43 the paper are confidential.

44 (3)(E) "Report" means the annual report on the status of the ward required by Utah  
45 Code Section 75-5-209 and Section 75-5-312.

46 (3)(F) "Ward" means a minor or an incapacitated person for whom the court appoints  
47 a guardian or a protected person for whom the court appoints a conservator.

48 (4) Subject to the requirements of Paragraph (5):

49 (4)(A) forms substantially conforming to the forms produced by the Utah court  
50 website are acceptable for content and format for the report and accounting filed under  
51 the Utah Uniform Probate Code;

52 (4)(B) a corporate fiduciary may file its internal report or accounting; and

53 (4)(C) if the ward's estate is limited to a federal or state program requiring an annual  
54 accounting, the fiduciary may file a copy of that accounting.

55 (5) The report, inventory and accounting shall contain sufficient information to put  
56 interested persons on notice of all significant events and transactions during the  
57 reporting period. Compliance with Paragraph (4) is presumed sufficient, but the court  
58 may direct that a report or accounting be prepared with content and format as it deems  
59 necessary.

60 (6)(A) The guardian shall file with the appointing court a report on the status of the  
61 ward no later than 60 days after the anniversary of the appointment. The guardian shall  
62 file the report with the court that appointed the guardian unless that court orders a

63 change in venue under Utah Code Section 75-5-313. The reporting period is yearly from  
64 the appointment date unless the court changes the reporting period on motion of the  
65 guardian. The guardian may not file the report before the close of the reporting period.  
66 For good cause the court may extend the time for filing the report, but a late filing does  
67 not change the reporting period.

68 (6)(B) The guardian shall serve a copy of the report on all interested persons with  
69 notice that the person may object within 30 days after the notice was served.

70 (6)(C) If an interested person objects, the person shall specify the entries to which  
71 the person objects and state the reasons for the objection. The person shall file the  
72 objection with the court and serve a copy on all interested persons. If an objection is  
73 filed, the judge shall conduct a hearing. The judge may conduct a hearing even though  
74 no objection is filed. If the judge finds that the report is in order, the judge shall approve  
75 it.

76 (6)(D) If there is no conservator, the guardian shall file the inventory and accounting  
77 required of a conservator.

78 (7)(A) Within 90 days after the appointment, the conservator shall file with the  
79 appointing court the inventory required by Utah Code Section 75-5-418. For good cause  
80 the court may extend the time for filing the inventory.

81 (7)(B) The conservator shall serve a copy of the inventory on all interested persons  
82 with notice that the person may object within 30 days after the notice was served.

83 (7)(C) If an interested person objects, the person shall specify the entries to which  
84 the person objects and state the reasons for the objection. The person shall file the  
85 objection with the court and serve a copy on all interested persons. If an objection is  
86 filed, the judge shall conduct a hearing. The judge may conduct a hearing even though  
87 no objection is filed. If the judge finds that the inventory is in order, the judge shall  
88 approve it.

89 (8)(A) The conservator shall file with the appointing court an accounting of the estate  
90 of the ward no later than 60 days after the anniversary of the appointment. The  
91 conservator shall file the accounting with the court that appointed the conservator  
92 unless that court orders a change in venue under Utah Code Section 75-5-403. The  
93 reporting period is yearly from the appointment date unless the court changes the

94 reporting period on motion of the conservator. The conservator may not file the  
95 accounting before the close of the reporting period. For good cause the court may  
96 extend the time for filing the accounting, but a late filing does not change the reporting  
97 period.

98 (8)(B) The conservator shall serve a copy of the accounting on all interested persons  
99 with notice that the person may object within 30 days after the notice was served.

100 (8)(C) If an interested person objects, the person shall specify the entries to which  
101 the person objects and state the reasons for the objection. The person shall file the  
102 objection with the court and serve a copy on all interested persons. If an objection is  
103 filed, the judge shall conduct a hearing. The judge may conduct a hearing even though  
104 no objection is filed. If the judge finds that the accounting is in order, the judge shall  
105 approve it.

106 (9)(A) The conservator shall file with the court a final accounting of the estate of the  
107 ward with the motion to terminate the appointment.

108 (9)(B) The conservator shall serve a copy of the accounting on all interested persons  
109 with notice that the person may object within 30 days after the notice was served.

110 (9)(C) If an interested person objects, the person shall specify the entries to which  
111 the person objects and state the reasons for the objection. The person shall file the  
112 objection with the court and serve a copy on all interested persons. If an objection is  
113 filed, the judge shall conduct a hearing. The judge may conduct a hearing even though  
114 no objection is filed. If the judge finds that the accounting is in order, the judge shall  
115 approve it.

116

# **BASIC GUIDELINES FOR COURT-APPOINTED GUARDIANS AND CONSERVATORS**

**COMMITTEE ON LAW AND AGING, UTAH STATE BAR  
AND THE  
ADMINISTRATIVE OFFICE OF THE UTAH STATE COURTS**

This manual and other help and information are on the web at:

[www.utcourts.gov/xxxxxxx](http://www.utcourts.gov/xxxxxxx)

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## **BASIC GUIDELINES FOR COURT-APPOINTED GUARDIANS AND CONSERVATORS**

### **(1) Introduction.**

Thank you for serving as a guardian or conservator. People incapacitated by age, illness or disability may need special protection. As a fiduciary for such a person, you hold a position of high trust to help your ward make decisions and to make decisions on his or her behalf.

This manual does not explain the process for becoming a guardian or conservator, but it will help you understand your responsibilities after you have been appointed by a court. Because it provides only general information, this manual is not a substitute for legal advice. Consult your lawyer to answer your specific questions.

This manual has limited applicability to the guardian of a minor. If the guardianship is limited to the purpose of attending school, the guardian of a minor is exempt from filing the annual report on the status of the ward. (Section (5)(a)). If the minor's estate is deposited in an account that requires judicial approval for withdrawal or if there is no estate, the guardian of a minor is exempt from filing an annual accounting. (Section (5)(b)).

### **(2) What is a guardian and a conservator?**

A guardian is a person or institution appointed by a court to make decisions about the care of another, who is called a "ward." A conservator is a person or institution appointed by the court to manage the property and financial affairs of a ward. Sometimes the same person is appointed to both roles. If no conservator is appointed, the guardian has some of the responsibility of a conservator. Utah Code Section 75-5-312.

A guardian has the responsibility of a parent for a minor, except that the guardian does not have to use his or her own money for the ward's care and support. Utah Code Section 75-5-312. A conservator is the trustee of the ward's estate. Utah Code Section 75-5-420. The ward's estate includes all of his or her property. Some examples are income (such as wages, an annuity, or Social Security or other government benefits), real property (buildings and land), furniture, cash, bank accounts, certificates of deposit, stocks, bonds, retirement benefits, motor vehicles, and valuables such as jewelry, furs, and art. A conservator must use reasonable care, skill and caution to manage and invest the estate as a prudent investor would. Utah Code Section 75-7-902.

If the ward needs help in some but not all areas of decision making, the court may order a limited guardianship. Utah Code Section 75-5-304. Under Utah law, a limited guardianship is preferred, and the court may grant a full guardianship only if no alternative exists. A limited guardian has only those powers and duties listed in the court order. The court may also limit the conservator's authority. Utah Code Section 75-5-426.

In an emergency, the court may appoint a temporary guardian, who serves for no more than 30 days, until a hearing to decide whether the ward needs a permanent guardian. A temporary guardian has the responsibility of a permanent guardian, either limited or full, depending on the circumstances. Utah Code Section 75-5-310.

Your appointment order and letters of guardianship or conservatorship issued by the court should specify the nature of your appointment.

### **(3) How long is my appointment?**

Your appointment as guardian or conservator lasts until the court terminates your appointment. You may resign, and the court will appoint another guardian or conservator if your ward still needs one or both. If you have been appointed both guardian and conservator, you can resign as one and not the other. Or the circumstances that justified the appointment in the first place may change so that the ward no longer needs a guardian or conservator. Changed circumstances might include such things as the ward has been adopted, has reached age 18, is no longer incapacitated, or has died. Regardless of the reason to end your obligations, you retain them until the court removes you. Utah Code Section 75-5-306, 75-5-307 and 75-5-415.

Consult your lawyer about the proper procedures to end the appointment and turn over the estate. You must prepare a final accounting and transfer the estate to your successor, if one is appointed, or to your ward. You may need to record a copy of the order ending the appointment with the county recorder where your ward owns land to clear title to that property.

### **(4) Recordkeeping.**

Keeping good records is essential for guardians and conservators because you must account for all transactions at least annually. Contemporaneous records, that is, records prepared at the same time as an event, will help later, when you prepare your reports. As guardian, you must report the status of your ward to the court. Guardians must also report financial transactions to the court or, if there is one, to the conservator. As conservator, you must report financial transactions to the court. In addition to annual reports, any person interested in your ward can request further reports. Also, as is explained in Section (5), you can claim reimbursement from the estate for your ward's living expenses that you pay with your own money.

Set up files to keep legal documents, tax records, paid bills, unpaid bills, correspondence and other papers related to your ward. Obtain a copy of your ward's will, living will, trust or other estate planning documents so you can follow the estate plan. Keep a copy of all documents filed with or issued by the court. Keep the records about your ward separate from your personal records.

As guardian, you should keep a journal or diary throughout the year to record your ward's activities and important events, especially if there is not an independent record of the event. If your ward does not live with you, record the dates of your visits.

Keep negotiable instruments, deeds, and wills in a safe deposit box in the name of the guardianship or conservatorship.

You may be personally liable if you do not keep proper records. Utah Code Sections 75-5-302, 75-5-312 and 75-5-417. The court may order you to reimburse the estate if you cannot show what you did with your ward's property, even if you know that you used it in your ward's best interests. Good records help to protect you in the event that your management of the estate is questioned.

**(5) Reporting.**

**(a) Guardian.**

You must annually report to the court the status of your ward. Utah Code Section 75-5-312. The annual report shows how your ward is doing and alerts the court to any changes. Between annual reports, you should inform the family and other interested persons of any significant changes in your ward's circumstances. If your ward dies, notify the court and the interested persons at once.

If the court has appointed a separate conservator, you must report to the conservator the financial transactions that you have taken on your ward's behalf. Utah Code Section 75-5-312. Because the conservator has to report annually to the court, you should report at least annually to the conservator. Discuss this with the conservator to ensure that you report at a mutually convenient time.

If the court has appointed you conservator or has not appointed a conservator, you must also file the inventory and accountings required of the conservator. Code of Judicial Administration Rule 6-501.

**(b) Conservator.**

Within 90 days after being appointed as conservator, (or if you are the guardian and there is no conservator) you must file with the court an inventory listing the estate property. Utah Code Section 75-5-418. Your first task is to locate and identify all of the property. Begin as soon as possible after your appointment or even before the appointment is final. Once you have a complete list of the property, prepare the inventory and file it with the court. Later, if you discover more property, file an amended inventory. Your ward's financial affairs may be in disarray, and you may need to put them in order.

You must annually account to the court for your ward's estate. Utah Code Section 75-5-417. You must also account to the court for your ward's estate with your motion to

terminate the appointment. Utah Code Section 75-5-419. Filing an accurate accounting is important. Failure to do so makes you liable for a fine. Utah Code Section 75-5-417. More important, the court order approving the accounting relieves you of liability for anything included in the accounting. Utah Code Section 75-5-419.

If your ward's estate is limited to payments from a state or federal agency that requires you to account annually to the agency, you may file with the court a copy of the agency's form rather than the court form. For example, this may be the case if you are your ward's representative payee through the Social Security Administration. See Section (11).

**(c) Procedures.**

An on-line interview, based on your answers to questions, will prepare the necessary forms for a report on the status of your ward, an inventory, an accounting and notice to interested persons. The on-line interview is available at: [www.utcourts.gov/XXXXXXXXXX](http://www.utcourts.gov/XXXXXXXXXX). Keep a copy of all documents for your records.

The deadlines for the status report, inventory and accounting are as follows:

Document	Who Files?	Due Date
Status Report	Guardian	Within 60 days after each anniversary of your appointment.
Inventory	Conservator*	Within 90 days after your appointment.
Accounting	Conservator*	Within 60 days after each anniversary of your appointment.

\* Filed by guardian if there is no conservator.

File the documents with the court that appointed you. You may ask the court to change the reporting period, such as to a calendar year or any other 12-month period that is more convenient. Code of Judicial Administration Rule 6-501. This means that for the year in which the change is made you will report for a shorter period of time. For example, if you are appointed on August 17, and receive the court's permission to report on a calendar year basis, your initial report would cover the period from August 17 to the end of the calendar year.

Also, if your ward moves to another county, you may ask the court to move your reports to that county. Utah Code Sections 75-5-205, 75-5-302 and 75-5-403.

You must mail a copy of your status report, inventory and accounting, along with a notice of right to object, to:

- (1) your ward (if he or she is of an appropriate age and mental capacity to understand the proceedings);
- (2) your ward's guardian or conservator (if the court has appointed one other than yourself);

- (3) your ward's spouse, children and siblings; and
- (4) anyone requesting notice under Utah Code Section 75-5-406.

Code of Judicial Administration Rule 6-501.

Because the information is sensitive, mark the outside of the envelope with "confidential" or a similar statement. If anyone objects to the filing or if the judge has further questions, the court clerk will schedule a hearing of which you and the others will be notified. Code of Judicial Administration Rule 6-501.

## **(6) Compensation.**

Often a family member serves as guardian or conservator without compensation, but with the court's approval, a guardian or conservator is entitled to reasonable compensation from the estate. What is reasonable depends on the types of services provided, the skill of the guardian or conservator, and whether the time and expenses are reasonable. Utah Code Section 75-5-414. Accurate records are essential.

You do not have to pay your ward's expenses with your money. Utah Code Section 75-5-209. Although you should not commingle your money and property with that of your ward, you can pay for your ward's living expenses and recover your out-of-pocket costs from the estate. Utah Code Section 75-5-102. Because reimbursement for living expenses includes elements of commingling, do it only if it is absolutely necessary. Whenever possible, use your ward's money to pay his or her expenses. To claim reimbursement from the estate, keep a receipt for the goods or services and proof that you paid with your own money. If you need to pay some of your ward's living expenses with your money, you should pay by check, credit card or debit card rather than with cash because cash does not create a record that the money was yours.

## **(7) Liability.**

You are not personally liable for your ward's acts. Utah Code Section 75-5-312. You are not liable for reasonable actions taken in the best interests of your ward. You are not liable for managing your ward's estate if you act like a prudent person dealing with the property of another. You are liable if you are personally at fault and your ward is damaged by your carelessness. Utah Code Section 75-5-429.

Understand your responsibilities, use common sense and exercise sound judgment to prevent problems. You are not required to have any special skills to act as guardian or conservator. However, if you have special skills, you must use those skills to manage your ward's estate. Consult your lawyer to answer specific questions.

The court will require a bond to protect your ward financially, unless it is waived for good cause. Utah Code Sections 75-5-411 and 75-5-412. The bond is an insurance policy paid for by the estate that protects your ward in the event that your mistake causes the estate to lose money. The amount of the bond will be the total value of the

estate property over which you have unsupervised control, plus one year's estimated income.

**(8) Financial decisions.**

If the court appoints a conservator, the conservator will decide most issues involving the ward's money and property and will file the accountings described in Section (5)(b). If the court does not appoint a separate conservator, the guardian has some of the conservator's responsibilities. If you, as guardian, do not want those added responsibilities, ask the court to appoint a separate conservator.

As guardian, you must manage your ward's money and property to pay for his or her support, care and education. If your ward has money and property beyond what is needed for support, care and education, a conservator, either you or another, should invest the excess. Utah Code Sections 75-5-312 and 75-5-424.

Involve your ward in the estate management as much as possible, and keep your ward informed. If your ward is able to maintain a small checking account and to pay routine bills, encourage him or her to do so, to provide a higher level of self esteem.

You may use your ward's funds only for his or her benefit. You may take into account your ward's accustomed standard of living. Utah Code Section 75-5-425. If family members express concern about the cost of your ward's care, your responsibility is to your ward, not the heirs.

Open a checking account in the name of the guardianship or conservatorship to deposit income and pay bills. Completely describe each transaction. If the balance in the checking account accumulates beyond your ward's needs, transfer the excess to an interest bearing account or other investment in the name of the guardianship or conservatorship. If you need to withdraw money from the investment account to pay for an extraordinary expense, first transfer the money into the checking account.

Keep your ward's property – including money – separate from yours, and use your ward's property only for his or her benefit. Manage your ward's property as you would want someone else to handle yours. Consult your lawyer or financial counselor to answer specific questions.

**(9) What is a guardian's responsibility?**

Utah Code Section 75-5-312 governs your responsibility as guardian. Generally, you have the responsibility of a parent for a minor. If the court does not appoint a separate conservator, you also have some of the conservator's responsibilities. Unless your authority is limited by the appointment order, you:

- (1) may have custody of your ward;
- (2) may establish your ward's place of abode;

- (3) must provide for your ward's care, comfort and maintenance and arrange for your ward's education and social activities;
- (4) must take reasonable care of your ward's personal effects;
- (5) may consent to enable your ward to receive medical or professional care, counsel or treatment;
- (6) may consent to your ward's marriage, if authorized by a court to give consent;
- (7) may consent to your ward's adoption if authorized by a court to give consent and if the rights of the ward's parents have been terminated;
- (8) must start proceedings to protect your ward's property or to compel someone to pay money due your ward;
- (9) must exercise care to conserve any excess money or property for your ward's future needs.

A separately appointed conservator has most of the responsibility for money and property. Discuss with the conservator your respective responsibilities so that both of you clearly understand them.

If the court has appointed a separate conservator, you have the right to receive from the conservator reasonable sums for your ward's daily living expenses. This might be in the form of an allowance to you as guardian to pay third persons, or the conservator might pay third persons directly. Utah Code Section 75-5-312. Discuss this with the conservator to agree upon the amount, method and timing of regular payments and of any extraordinary expenses.

As guardian, you may not:

- (1) sell your ward's property, such as stocks or real estate, unless also appointed as conservator;
- (2) cast your ward's ballot in an election;
- (3) decide your ward's religious preference;
- (4) write a will for your ward or change a previously executed will;
- (5) physically punish your ward;
- (6) neglect appropriate healthcare for your ward;
- (7) leave your ward unattended if he or she needs care; or
- (8) commit your ward to a psychiatric hospital without a commitment hearing, unless your ward consents or the authority was expressly granted in the appointment order.

**(a) Decision making guidelines.**

Encourage your ward's maximum self-reliance and independence. Involve your ward in making decisions, and allow your ward to make as many decisions as possible. One guide to help you is known as "the least restrictive alternative." This means that, to preserve your ward's independence to the fullest extent possible, you and your ward choose the alternative that will least restrict your ward's freedom.

As guardian, you help your ward make personal decisions or, if necessary, you make the decisions for your ward. If your ward is unable to communicate, try to reach the decision that your ward would have made if able to choose. It is what the ward would do, not you, that serves as your guide, as long as the decision is in your ward's best interest.

**(b) Health care.**

If your ward has appointed a health care agent in an advance health care directive, that person makes health care decisions for your ward, including decisions about end-of-life. Otherwise, these decisions are yours. Work closely with your ward's doctor or other healthcare providers. You may be asked to give consent to medical treatment. Obtain as much information as you can about your ward's preferences. You can do this by asking your ward directly. If your ward is unable to communicate and has advance medical directives, like a living will or advance health care directive, then you should use those directives to guide your decision. If such documents are not available, speak with your ward's family and friends about his or her medical treatment preferences. If no information about medical treatment preference is available, consider the beliefs of your ward's religion.

Ask questions regarding medical alternatives and the benefits and risks of a proposed treatment. If a proposed surgical procedure or drug therapy is controversial, ask for the court's permission before you authorize treatment.

**(c) Living arrangements.**

If possible, keep your ward living at his or her own home. Services may be available to provide meals, transportation, or in-home assistance. If your ward is no longer safe at home, it may be necessary to move him or her to a more protected setting. Consult your ward's doctor and other professionals for recommendations concerning placement in a facility that will best meet your ward's needs. Following placement, regularly visit your ward and consult with staff to ensure that your ward's needs are met. Your ward may live with you, your spouse, your parents or your children, but you are not permitted to charge your ward's estate for the cost of room and board unless you get the court's permission. Utah Code Section 75-5-312(2)(d)(ii). Regardless of the living situation, you are responsible to ensure that your ward is safe, comfortable, and receiving healthcare, nutrition, grooming, and recreation.

**(10) What is a conservator's responsibility?**

Utah Code Sections 75-5-424, 75-5-425, 75-5-428 and 75-7-902 govern your responsibility as conservator.

You must exercise reasonable care, skill and caution to invest and manage estate assets as a prudent investor would, considering the estate's circumstances. You must

make a reasonable effort to verify relevant facts. Your investment and management decisions about individual assets must be evaluated in the context of the estate as a whole and as a part of an overall investment strategy having risk and return objectives reasonably suited to the estate. Circumstances that you should consider in investing and managing estate assets include the following:

- (1) general economic conditions and the possible effect of inflation or deflation;
- (2) the expected tax consequences of investment decisions or strategies;
- (3) the role that an investment or course of action plays within the overall portfolio;
- (4) the expected total return from income and the appreciation of capital;
- (5) the size of the estate, the need for liquidity, regularity of income, and preservation or appreciation of capital; and
- (6) an asset's special value to the purposes of the estate or to the ward.

In managing your ward's estate, you are required to take into account any estate plan. You may examine your ward's will, including a will filed with the court for safekeeping. Utah Code Sections 75-5-427 and 75-2-901.

Unless your authority is limited by the appointment order, you may:

- (1) collect, hold, and retain estate assets;
- (2) invest in any kind of property or type of investment that is consistent with the standards imposed by the Utah Code;
- (3) allocate items of income or expense to estate income or principal;
- (4) acquire estate assets or take an option to acquire estate assets;
- (5) dispose of estate assets or grant an option to dispose of an estate asset;
- (6) invest and reinvest estate assets;
- (7) deposit estate funds in a bank;
- (8) continue or participate in operating any business or enterprise;
- (9) acquire an undivided interest in an estate asset in which the conservator holds an undivided interest;
- (10) manage, develop, improve, exchange, partition, abandon or change the character of, an estate asset;
- (11) repair, modify or demolish buildings, structures or improvements;
- (12) subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving considerations; and dedicate easements to public use without consideration;
- (13) enter into a lease for a term within or extending beyond the term of the conservatorship;
- (14) vote a security;
- (15) pay calls, assessments, and other sums accruing on account of securities;

- (16) sell or exercise stock subscription or conversion rights; consent to the reorganization, consolidation, merger, dissolution, or liquidation of a corporation or other business enterprise;
- (17) hold a security in the name of a nominee or in other form without disclosure of the conservatorship;
- (18) insure estate assets against damage or loss and the conservator against liability with respect to third persons;
- (19) borrow money and advance money for protecting the estate or the ward, and for all expenses, losses, and liabilities sustained in administering the estate;
- (20) prosecute or defend actions, claims, or proceedings for protecting estate assets and you, as conservator, in the performance of your duties;
- (21) pay, settle or contest a claim by or against the estate or the ward;
- (22) release any claim of the estate to the extent that the claim is uncollectible;
- (23) pay taxes, assessments, your compensation, and other expenses incurred in the collection, care, administration, and protection of the estate;
- (24) pay any sum distributable to your ward or his dependent by paying the sum to your ward, to his guardian if there is one, or to the person with custody of your ward;
- (25) employ persons to advise or assist you in the performance of your duties and act upon their recommendation personally or by an agent;
- (26) execute and deliver instruments to facilitate the exercise of your powers;
- (27) spend or distribute income or principal for the support, education, care or benefit of your ward and his or her dependents;
- (28) if the estate is sufficient to provide for the support, education, care or benefit of your ward and his or her dependents and if the estate is that of an incapacitated adult, you may make gifts to charity as your ward might have been expected to make, provided the total does not exceed for any year 20% of the income from the estate; and
- (29) pay all just claims against the estate and against your ward.

As conservator, you may not:

- (1) commingle your personal funds with those of your ward;
- (2) pay your personal expenses from the estate (For example, do not use your ward's money to pay your personal bills.);
- (3) deposit estate funds into your account or your funds into the estate account;
- (4) borrow money or property from the ward's estate;
- (5) sell estate property for less than fair market value (For example, do not sell the property to family members at reduced prices.);
- (6) record your name on your wards property as though you are the owner (For example, do not record your name on your ward's bank account as if you owned the account. It is proper to record you name on an account as your ward's conservator).

**(11) Representative payee.**

If an agency, such as the Veteran's Administration or the Social Security Administration, pays benefits to your ward and your ward is found by a court to be incapacitated, the agency must appoint a representative payee to receive the payments. This appointment is separate from the court-appointed guardianship and conservatorship. If you wish to serve as the representative payee, you must apply to the agency that provides the benefits. In most cases, the agency will appoint the court-appointed guardian or conservator as representative payee. The agency providing the benefits has the authority, however, to appoint any person it chooses to be the ward's representative payee. Once appointed by the agency, the representative payee has the authority to receive and handle the benefits for your ward.

**(12) Criminal penalties.**

You may be found criminally liable for financially exploiting or physically or emotionally abusing your ward. While there are many laws that govern the conduct of a person in a fiduciary relationship, you should especially be aware of the following criminal penalties under Utah law. Consult your lawyer to answer your specific questions.

**(a) Abuse or neglect of a vulnerable adult.**

Utah Code Section 76-5-111.

A person who causes a vulnerable adult to suffer harm, abuse or neglect; or, having the care or custody of a vulnerable adult, causes or permits that adult's person or health to be injured, abused, or neglected, or causes or permits a vulnerable adult to be placed in a situation where the adult's person or health is endangered, is guilty of abuse of a vulnerable adult.

**(b) Exploitation of a vulnerable adult.**

Utah Code Section 76-5-111.

A person commits the offense of exploitation of a vulnerable adult when the person:

(i) is in a position of trust and confidence, or has a business relationship, with the vulnerable adult or has undue influence over the vulnerable adult and knowingly, by deception or intimidation, obtains or uses, or endeavors to obtain or use, the vulnerable adult's funds, credit, assets, or other property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of the adult's property, for the benefit of someone other than the vulnerable adult;

(ii) knows or should know that the vulnerable adult lacks the capacity to consent, and obtains or uses, or endeavors to obtain or use, or assists another in obtaining or using

or endeavoring to obtain or use, the vulnerable adult's funds, assets, or property with the intent to temporarily or permanently deprive the vulnerable adult of the use, benefit, or possession of his property for the benefit of someone other than the vulnerable adult;

(iii) unjustly or improperly uses or manages the resources of a vulnerable adult for the profit or advantage of someone other than the vulnerable adult;

(iv) unjustly or improperly uses a vulnerable adult's power of attorney or guardianship for the profit or advantage of someone other than the vulnerable adult;

(v) involves a vulnerable adult who lacks the capacity to consent in the facilitation or furtherance of any criminal activity; or

(vi) commits sexual exploitation of a vulnerable adult.

**(c) Reporting abuse, neglect or exploitation of a vulnerable adult.**

Utah Code Section 76-5-111.1.

Any person who has reason to believe that a vulnerable adult has been abused, neglected or exploited shall immediately notify the nearest peace officer, law enforcement agency, or Adult Protective Services within the Department of Human Services, Division of Aging and Adult Services. Anyone who makes that report in good faith is immune from civil and criminal liability. A person who is required to report suspected abuse, neglect, or exploitation of a vulnerable adult and who willfully fails to do so is guilty of a class B misdemeanor.

Any person who has reason to believe that a ward is being physically or emotionally abused, or financially exploited, should report the abuse to Adult Protective Services at 801-264-7669 (in Salt Lake County), or 1-800-371-7897 (throughout Utah). In case of an emergency, call local law enforcement or 911.

**(d) Theft.**

Utah Code Section 76-6-404.

A person commits theft if he obtains or exercises unauthorized control over the property of another with a purpose to deprive him of it.

**(e) Unlawful dealing of property by a fiduciary.**

Utah Code Section 76-6-513.

A person is guilty of unlawfully dealing with property by a fiduciary if he deals with property that has been entrusted to him as a fiduciary ... in a manner which he knows is

a violation of his duty and which involves substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted.

A person acting as a fiduciary is guilty of unlawfully dealing with property by a fiduciary if, without permission, he pledges as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.

**(13) Resources.**

**(a) Adult Protective Services.**

801-264-7669 (in Salt Lake County), or 1-800-371-7897 (throughout Utah). In case of an emergency, call local law enforcement or 911.

**(b) Aging services.**

Division of Aging and Adult Services, State of Utah, Department of Human Services, 801-538-3910, or [www.daas.utah.gov](http://www.daas.utah.gov). The Division of Aging can give you information about your local area agency on aging.

**(c) Guardianship services.**

Office of Public Guardian, State of Utah, Department of Human Services, 801-538-8255

**(d) Legal resources.**

Utah State Bar, [www.utahbar.org](http://www.utahbar.org), or 801-531-9077  
Utah Legal Services, 801-328-8891 or 1-800-662-4245

**(e) Court website.**

Resources are listed on the court's website at: [www.utcourts.gov/XXXXXXXXX](http://www.utcourts.gov/XXXXXXXXX).  
The court website links to the statutes and rules mentioned in this manual.

**(14) Terms to know.**

Annual Account – Report of a conservator filed with the court, showing income to and payments from an estate, as well as inventory changes.

Annual Report – Report of a guardian filed with the court, about the ward's current condition.

Bond – Insurance that the court may require, which is paid for by and covers the ward's estate.

Conservator – A person or institution appointed by the court to manage the ward's estate.

Court visitor- A person appointed by the court, in a guardianship proceeding, to visit the alleged incapacitated person and report to the court.

Durable power of attorney for health care – A legal document by which one person gives another power to make health care decisions. This power of attorney is effective even after the giver no longer has legal capacity.

Estate – All property and assets, of any kind, belonging to a person.

Fiduciary – A special relationship of trust between two people; a person having legal responsibilities for another.

Guardian – A person or institution appointed by the court to take care of the ward.

Guardian ad litem – A lawyer appointed by the court to represent an alleged incapacitated/protected person who does not already have a lawyer.

Incapacitated person – A person who cannot make or communicate responsible personal decisions because of mental illness, mental deficiency, physical illness or disability, chronic uses of drugs, chronic intoxication, or any other cause except being a minor.

Letters of guardianship/conservatorship – The court document in which the guardian/conservator accepts duties and which authorizes him or her to act.

Living will – A legal document by which a person expresses his/her end-of-life medical treatment wishes.

Minor – A child under the age of 18 who, by law, does not have the capacity to manage his or her affairs.

Protected person – A person who cannot effectively manage financial affairs because of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause. A minor child may require protection because of legal incapacity arising from minority.

Representative payee – A person named by a federal agency, such as the Veteran's Administration or Social Security Administration, to receive and account for another person's benefits.

Ward – A person for whom a guardian has been appointed.

## **(15) Sample forms.**

If you wish to use these sample forms, make copies of the blank forms so you can use the sample in the future. Keep a copy of each completed form for your records. If you have any questions about these forms, consult a knowledgeable lawyer.

An on-line interview, based on your answers to questions, will prepare the necessary forms for a report on the status of your ward, an inventory, an accounting and notice to interested persons. The on-line interview is available at: [www.utcourts.gov/XXXXXXXXXX](http://www.utcourts.gov/XXXXXXXXXX). Keep a copy of all documents for your records.

<b>Form</b>	<b>Filed By</b>	<b>Deadline</b>	<b>Applies To</b>	<b>Mailed To</b>
Affidavit of testing	Guardian Conservator	Before order/letters issue	Guardianships Conservatorships	Filed, but not mailed
Report on Status of the Ward	Guardian	60 days after anniversary of appointment.	Guardianships	Ward, ward's conservator, heirs, anyone requesting notice under §75-5-406.
Inventory	Conservator*	90 days from appointment.	Guardianships Conservatorships	Ward, ward's guardian, heirs, anyone requesting notice under §75-5-406.
Accounting	Guardian to Conservator OR Conservator* to Court	60 days after anniversary of appointment.	Guardianships Conservatorships	Guardian submits to conservator but does not file with the court. Conservator* serves on ward, ward's guardian, heirs, anyone requesting notice under §75-5-406.
CPA Affidavit of Review	Conservator*	With accounting.	Guardianships Conservatorships	Accompanies the accounting
Notice of Right to Object	Guardian Conservator	With report on status, inventory and accounting.	Report on status, inventory and accounting	Accompanies the report on status, inventory and accounting
Notice of Hearing	Clerk	At least 10 days before the hearing.	If someone objects to the report on status, inventory and accounting	Clerk posts in 3 public places and mails to people who have requested notice. Clerk mails to ward, ward's guardian or conservator, and ward's heirs.
Certificate of Mailing/Posting Notice of Hearing.	Clerk	Upon distribution of the notice.	Whenever there is a hearing	Filed but not served.

<b>Form</b>	<b>Filed By</b>	<b>Deadline</b>	<b>Applies To</b>	<b>Mailed To</b>
Certificate of Mailing	Guardian Conservator	Upon mailing.	Report on status, inventory, accounting, motion to terminate, and orders approving same	Filed but not served.
Order Approving	Judge	60 days after submission	Report on status, inventory and accounting	Ward, Guardian, Conservator, Interested Persons
Motion to Terminate	Ward, Guardian, Conservator, Interested Persons	None.	Guardianships Conservatorships	Ward, Guardian, Conservator, Interested Persons
Order to Terminate	Judge	60 days after submission	Guardianships Conservatorships	Ward, Guardian, Conservator, Interested Persons

\* Filed by guardian if there is not a separate conservator.

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

In the Matter of _____ _____	Affidavit of testing Case Number: _____ Judge : _____
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State of Utah  
County of \_\_\_\_\_ } ss

Being first duly sworn, I state that I have successfully passed the court-approved examination on the authority and responsibilities of guardians and conservators.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

\_\_\_\_\_ is personally known to me or presented satisfactory proof of identity to me. After being sworn and while under oath, s/he stated that s/he was acting voluntarily, had read and understood this document, and that the contents were true. S/he then signed the document in my presence.

\_\_\_\_\_  
Notary's Signature  
Seal

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of  _____.</p>	<p>Acknowledgement of restricted account  Case Number: _____  Judge : _____</p>
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State of Utah  
County of \_\_\_\_\_ } ss

Being first duly sworn, I state that:

(1) I am an authorized representative of the \_\_\_\_\_.

(2) Money for this estate has been or will be deposited into an account in this institution.

(3) I acknowledge that the account is a restricted account and requires a court order for withdrawal.

\_\_\_\_\_  
Representative's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_ is personally known to me or presented satisfactory proof of identity to me. After being sworn and while under oath, s/he stated that s/he was acting voluntarily, had read and understood this document, and that the contents were true. S/he then signed the document in my presence.

\_\_\_\_\_  
Notary's Signature  
Seal

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Report on Status of the Ward [Section 75-5-312]</p> <p>Case Number: _____</p> <p>Judge : _____</p>
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1. I am the Guardian of the above-named Ward.
2. The Ward was born on \_\_\_\_\_.
3. [This is my first report.] [This is my final report.] [My previous report covered the period from \_\_\_\_\_ to \_\_\_\_\_.]
4. This report covers the period from \_\_\_\_\_ to \_\_\_\_\_. (The beginning date must be one day later than the ending date of the pervious report.)

Contacts

5. During the reporting period, I had contact with the Ward approximately [#] times per month in person or by telephone.
6. During the reporting period, the Ward has engaged in the following education, training or social activities.  
Explain: \_\_\_\_\_

Living Arrangements

7. The Ward lives at:  
Name of facility (if applicable): \_\_\_\_\_  
Street Address / City / State / Zip: \_\_\_\_\_  
Mailing Address / City / State / Zip: \_\_\_\_\_

8. The Ward has been at this location since \_\_\_\_\_. [The Ward has moved during the reporting period year because \_\_\_\_\_.]

9. This living arrangement is best described as [the Ward’s home] [a relative’s home – describe relationship] [my home] [a care facility – describe].

10. [If a private home.] The following people are living in the same household with the Ward:

Name	Relationship to the Ward

10. [If a care facility.] The following person at the care facility can be contacted for further information:

Name	Mailing Address	Telephone Number	E-mail Address

11. I rate the living situation as [excellent] [average] [below average].  
 Explain: \_\_\_\_\_

12. I believe the Ward is [content] [unhappy] with the living situation.  
 Explain: \_\_\_\_\_

13. I recommend a more suitable living arrangement. [No] [Yes]  
 Explain: \_\_\_\_\_

Health

14. The Ward’s primary medical care provider is:

Name: \_\_\_\_\_  
 Mailing Address: \_\_\_\_\_

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

15. During the reporting period, the Ward has been treated or evaluated by: (Include Physicians, Dentists, Psychiatrists, Psychologists, Social workers, etc.)

Name	Mailing Address	Date	Purpose	Findings

16. During the reporting period, the Ward has received the following treatment, therapy or assistive devices.

Explain: \_\_\_\_\_  
\_\_\_\_\_

17. Currently, the Ward is taking the following medications:

Name	Dosage	Reason

18. Describe the Ward's cognitive and emotional functioning:

Explain: \_\_\_\_\_  
\_\_\_\_\_

19. Describe the Ward's everyday functioning, such as ability care for self, make medical decisions, and make daily living decisions:

Explain: \_\_\_\_\_  
\_\_\_\_\_

20. During the reporting period, the Ward's mental health has [remained about the same] [improved] [deteriorated].

Explain: \_\_\_\_\_  
\_\_\_\_\_

21. During the reporting period, the Ward's physical health has [remained about the same] [improved] [deteriorated].

Explain: \_\_\_\_\_  
\_\_\_\_\_

22. During the reporting period, the Ward has been diagnosed with a terminal illness. [No] [Yes]

23. There [is] [is not] a current plan for the Ward’s care, training or treatment. [The plan is on file with the court.]

Recommendations

24. I recommend that the guardianship should be [continued] [modified as follows]:

---

---

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

In the District Court of the State of Utah  
 \_\_\_\_\_ Judicial District  
 \_\_\_\_\_ County  
 Address: \_\_\_\_\_

In the Matter of  _____	Inventory Section 75-5-418 Case Number: _____  Judge : _____
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State of Utah  
 County of \_\_\_\_\_ } ss

1. [I am the [Guardian and] Conservator of the above-named Ward.] [I am the Guardian of the above-named Ward, and there is no Conservator.]
2. This is a complete inventory of the property owned by the Ward of which I am aware.
3. The value for each item of property is the fair market value of the property as of the date of the appointment order, which was entered on \_\_\_\_\_.
4. Summary

Schedule	Property	Fair Market Value on Date of Appointment Order
A	Real Estate	\$
B	Stocks and Bonds	\$
C	Mortgages and Notes	\$
D	Cash and Cash Accounts	\$
E	Miscellaneous Property	\$
F	Encumbrances	\$( )
	Total Net Value	\$

Schedule A - Real Estate (Include the Ward's residence owned by the Ward. The value of the Ward's residence is not included in the estate for the purpose of

determining whether the estate is above or below \$50,000, but the residence must be accounted for.)

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

Schedule B - Stocks and Bonds

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

Schedule C – Mortgages and Notes

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

Schedule D – Cash Accounts (Such as checking or savings accounts)

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

Schedule E - Other Miscellaneous Property

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

Schedule F – Encumbrances

Item	Description	Fair Market Value on Date of Appointment Order
1		\$
2		\$
3		\$
	Total	\$

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

\_\_\_\_\_ is personally known to me or presented satisfactory proof of identity to me. After being sworn and while under oath, s/he stated that s/he was acting voluntarily, had read and understood this document, and that the contents were true. S/he then signed the document in my presence.

\_\_\_\_\_  
Notary's Signature  
Seal

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

In the Matter of  _____	Guardian’s Financial Accounting to Conservator [Section 75-5-312]  or  Conservator’s Financial Accounting to the Court [Section 75-5-419]  Case Number: _____  Judge : _____
-------------------------------	--

1. [I am the [Guardian and] Conservator of the above-named Ward.] [I am the Guardian of the above-named Ward, and there is no Conservator.]
2. [This is my first accounting.] [This is my final accounting.] [My previous accounting covered the period from \_\_\_\_\_ to \_\_\_\_\_.]
3. This accounting covers the period from \_\_\_\_\_ to \_\_\_\_\_.  
(The beginning date must be one day later than the ending date of the pervious accounting.)
4. There [is] [is not] an estate plan to guide investment and distribution. [The plan is on file with the court.]
5. Beginning Balance (Must agree with ending balance of the Inventory or of the previous accounting, whichever is later.)

Item	Property Type	Amount
1	Real Estate	\$
2	Stocks and Bonds	\$
3	Mortgages and Notes	\$

4	Cash and Cash Accounts	\$
5	Miscellaneous Property	\$
6	Total	\$

Receipts during the reporting period.

Item	Property Description	Amount
1	Wages	\$
2	Interest	\$
3	Dividends	\$
4	Social Security	\$
5	Annuities	\$
6	Insurance	\$
7	Other (Describe)	\$
8	Total	\$

Payments during the reporting period.

Item	Category	(Amount)
1	Mortgage/Rent	\$
2	Utilities (Include gas, electricity, water and sewage, phone, internet, etc.)	\$
3	Home Maintenance (Include maintenance, cleaning, repairs, etc.)	\$
4	Home Improvement (Include additions, remodeling, etc.)	\$
5	Home Furnishings	\$
6	Health Care (Include physicians, dentists, psychiatrists, psychologists, etc.)	\$
7	Food	\$
8	Education	\$
9	Clothes	\$
10	Personal Effects	\$
11	Activities	\$
12	Transportation	\$
13	Taxes	\$
14	Charge for Conservator's Services	\$
15	Charge for Guardian's Services	\$
16	Charge for Other Professional Services	\$
17	Court Fees	\$
18	Other (Describe)	\$
19	Total	\$

Gains and losses during the reporting period.

Item	Property Description	Property Type (Real Estate, Stocks and Bonds, Mortgages and Notes, Cash Accounts, Miscellaneous Property)	Value in Beginning Balance	Value at Disposition	Amount of Gain (Loss)
1			\$	\$	\$
2			\$	\$	\$
3	Total		\$	\$	\$

Summary

Item	Property Type	Amount
1	Beginning Inventory	\$
2	Receipts Total	\$
3	Payments Total	\$
4	Gains and (Losses) Total	\$
5	Total*	\$

Ending Balance

Item	Property Type	Amount
1	Real Estate	\$
2	Stocks and Bonds	\$
3	Mortgages and Notes	\$
4	Cash and Cash Accounts	\$
5	Miscellaneous Property	\$
6	Total*	\$

\* Summary total must agree with Ending Balance total.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_

Your Typed or Printed Name

---

Your Address

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Notice of Right to Object Case Number: _____ Judge : _____</p>
------------------------------------	---

1. To \_\_\_\_\_, a person interested in the Ward.
2. I have filed with the court the attached [Inventory] [Accounting] [Report on Status of the Ward] [Motion to Terminate the [Guardianship] [Conservatorship]].
3. You may object to all or part of the [Inventory] [Accounting] [Report on Status of the Ward] [Motion to Terminate the [Guardianship] [Conservatorship]] by filing your objection with the court. The court must receive your objection no later than 30 days from the date this notice was mailed.
4. The objection must specify the entries to which you object and the reasons for your objection. If you file an objection, the court will schedule a hearing of which you will be notified.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Notice of Hearing Case Number: _____ Judge : _____</p>
------------------------------------	---

1. This court will hold a hearing in this matter on

Date \_\_\_\_\_  
Time \_\_\_\_\_  
Address \_\_\_\_\_  
Courtroom Number \_\_\_\_\_

for the purpose of considering the [Inventory] [Accounting] [Report on Status of the Ward] [Motion to Terminate the [Guardianship] [ Conservatorship].

2. To the Ward, [Guardian] [Conservator] of the Ward and all people interested in the Ward or in the estate of the Ward: You have the right to attend the hearing and, within the rules of evidence, to be heard.

\_\_\_\_\_  
Clerk's Signature

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County

Address: \_\_\_\_\_

In the Matter of  _____	Certificate of Posting and Mailing the Notice of Hearing  Case Number: _____  Judge : _____
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1. I certify that on \_\_\_\_\_, which is at least 10 days before the hearing scheduled in this case, I posted notice of the date, time and place of this hearing in a public place in this courthouse and in the following two other public places:

Name	Address	City

2. I certify that on \_\_\_\_\_, which is at least 10 days before the hearing scheduled in this case, I mailed notice of the date, time and place of this hearing by first class mail to the Ward, the Ward's [Guardian] [Conservator], the Ward's heirs and anyone who has requested notice under Utah Code Section 75-5-406 at their last known address on file with the court.

Name	Address	City	State	Zip

\_\_\_\_\_  
Clerk's Signature

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County

Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Certificate of Mailing Case Number: _____ Judge : _____</p>
------------------------------------	--

I certify that on \_\_\_\_\_ I mailed the [Report on Status of Ward] [Accounting] [Motion to Terminate the [Guardianship] [Conservatorship]] with notice of right to object by first class mail to the Ward, the Ward's [Guardian] [Conservator], the Ward's heirs, and to everyone requesting notice under Utah Code Section 75-5-406 at their last known address.

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Order Approving [Inventory] [Accounting] [Report on Status of the Ward]</p> <p>Case Number: _____</p> <p>Judge : _____</p>
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1. The [Guardian] [Conservator] has filed the [Inventory] [Accounting] [Report on Status of the Ward] for the reporting period from \_\_\_\_\_ to \_\_\_\_\_ as required by Rule 6-501.

2. The [Guardian] [Conservator] has filed a certificate showing that the [Guardian] [Conservator] has mailed a copy of the [Inventory] [Accounting] [Report on Status of the Ward] as required by Rule 6-501.

[3. The court clerk has filed a certificate showing that the clerk has posted a copy of the notice of this hearing for at least ten consecutive days immediately preceding the time set for this hearing in at least three public places in the county, one of which is this courthouse.]

[4. The court clerk has filed a certificate showing that the clerk has mailed a copy of the notice of this hearing at least ten days before the time set for this hearing by first class mail addressed to the address given by the person requesting notice under Section 75-5-406.]

5. [There being no objections filed and] the court having examined the [Inventory] [Accounting] [Report on Status of the Ward] [and having heard and considered the evidence], the [Inventory] [Accounting] [Report on Status of the Ward] is approved.

\_\_\_\_\_  
Judge's Signature

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County  
Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Motion to Terminate [Guardianship] [Conservatorship] and Affidavit</p> <p>Case Number: _____</p> <p>Judge : _____</p>
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State of Utah  
County of \_\_\_\_\_ } ss

Being first duly sworn, I state as follows:

1. I am [the Ward] [the Guardian of the Ward] [the Conservator of the Ward] [a person interested in the Ward].
2. I move for an order of the court terminating the [Guardianship] [Conservatorship] because [the Ward has been adopted.] [the Ward is no longer incapacitated.] [the Ward has died.] [for the following reasons:  
\_\_\_\_\_.]
3. I have attached to this motion my final accounting for my Ward's estate.
4. I request that the court enter an order transferring title to the estate to the [Ward] [Personal Representative of the Ward] [successor in interest] and terminating the [Guardianship] [Conservatorship].

\_\_\_\_\_  
Your Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Your Typed or Printed Name

\_\_\_\_\_  
Your Address

\_\_\_\_\_ is personally known to me or presented satisfactory proof of identity to me. After being sworn and while under oath, s/he stated that s/he was acting voluntarily, had read and understood this document, and that the contents were true. S/he then signed the document in my presence.

\_\_\_\_\_  
Notary's Signature  
Seal

\_\_\_\_\_  
Date

In the District Court of the State of Utah  
\_\_\_\_\_ Judicial District  
\_\_\_\_\_ County

Address: \_\_\_\_\_

<p>In the Matter of _____.</p>	<p>Order Terminating [Guardianship] [Conservatorship]</p> <p>Case Number: _____</p> <p>Judge : _____</p>
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1. [The Ward] [The Guardian of the Ward] [The Conservator of the Ward] [A person interested in the Ward] has filed a motion to terminate the [Guardianship] [Conservatorship] [and filed a final accounting].

2. [The Ward] [The Guardian of the Ward] [The Conservator of the Ward] [A person interested in the Ward] has filed a certificate showing that the [s/he] has a mailed a copy of the motion [and notice of this hearing] as required by Rule 6-501.

[3. The court clerk has filed a certificate showing that the clerk has posted a copy of the notice of this hearing for at least ten consecutive days immediately preceding the time set for this hearing in at least three public places in the county, one of which is this courthouse.]

[4. The court clerk has filed a certificate showing that the clerk has mailed a copy of the notice of this hearing at least ten days before the time set for this hearing by first class mail addressed to the address given by the person requesting notice under Section 75-5-406.]

5. [There being no objections filed and] the court having heard and considered the evidence, the [Guardianship] [Conservatorship] is terminated because [the Ward has been adopted.] [the Ward is no longer incapacitated.] [the Ward has died.] [for the following reasons:  
\_\_\_\_\_.]

\_\_\_\_\_  
Judge's Signature

\_\_\_\_\_  
Date