



# **GUIDELINES FOR CONSERVATORS**

**The Probate Courts of Connecticut  
Probate Court Administrator  
186 Newington Road  
West Hartford, CT 06110**

*Compliments of your local Probate Court:*

## **INTRODUCTION**

The Probate Courts of Connecticut become involved in the lives of individuals who are incapable of caring for themselves and/or their property. The Courts are entrusted with the responsibility of protecting the interests of these individuals. This trust is carried out by the appointment of a conservator, who is authorized by law to provide supervision and who is, in many respects, an agent of the Court.

This booklet has been prepared to answer some of the questions you may have regarding the procedures, roles, and responsibilities of the Probate Court and the conservator whom the Court appoints. It should be considered only as a guide in connection with the conservatorship process and not as a substitute for competent professional advice.

Notes: 1) As used in this booklet, words referring to the masculine gender may be applied to females, and words referring to the feminine gender may be applied to males.

2) Applications for conservatorship are available at the Probate Court or online at the Judicial Branch's Web site: [www.jud.ct.gov](http://www.jud.ct.gov). (Click on "Court Forms" under "Quick Links.")

## **WHAT IS A CONSERVATOR?**

A conservator is a person appointed by the Probate Court to oversee the financial and/or personal affairs of an adult person who is determined by the Probate Court to be incapable of managing his or her affairs or unable to care for himself or herself. A conservator may also be appointed for the same purpose for a capable person who requests such assistance.

There are two basic types of conservatorships to accommodate the different needs of individuals. A “conservator of the person” is appointed to supervise the personal affairs of an individual who is found by the Court to be unable, even with appropriate assistance, to meet essential requirements for personal needs. These needs may include, but are not limited to, the need for food, clothing, shelter, health care, and safety. A “conservator of the estate” is appointed to supervise the financial affairs of an individual who is found by the Court to be incapable of doing so himself to the extent that property will be wasted unless adequate property management is provided. This may include, but is not limited to, actions to: (1) obtain, administer, manage, protect, and dispose of real and personal property and tangible property, business property, benefits and income, and (2) deal with financial affairs.

A person may be in need of one or both types of conservators. Two separate individuals may perform these two roles, or one person may serve in both capacities. A conservator of the estate or person may be an individual, a legally authorized municipal or state official, or a private or nonprofit corporation. However, hospitals and nursing homes cannot be appointed conservators of either the person or the estate, and banks cannot be appointed conservators of the person.

An adult with mental retardation may be in need of a conservator of the estate to manage his or her financial affairs, while a guardian of the person with mental retardation is appropriate to oversee his or her personal affairs.

## **WHERE DOES A PERSON APPLY FOR THE APPOINTMENT OF A CONSERVATOR?**

In Connecticut, the Probate Courts have sole jurisdiction over the appointment of conservators. A person filing an application for a conservatorship must apply to the Probate Court in the probate district where the respondent (the person alleged to be incapable) resides, is domiciled, or is located at the time of the filing of the application.

## **DOES THE COURT HAVE THE AUTHORITY TO GRANT A CONSERVATORSHIP FOR A PERSON WHO IS NOT DOMICILED IN CONNECTICUT?**

Yes. The Probate Court may appoint a conservator for a person who is not domiciled in Connecticut if: 1) the respondent is presently located in the probate district in which the application is filed; 2) the petitioner has made reasonable efforts to provide notice to individuals and applicable agencies concerning the respondent; 3) the respondent has been given the opportunity and financial means to return to his or her place of domicile within his or her resources and has declined to return, or the petitioner has made reasonable but unsuccessful efforts to return the respondent to his or her place of domicile. The Court must review any involuntary representation of a person not domiciled in Connecticut every 60 days. The conservator and the conserved person’s attorney must each file a report (form PC-371B) in connection with this review.

## **WHAT ARE THE LIMITATIONS ON A CONSERVATOR'S AUTHORITY?**

The Court shall assign only the duties and authority that are the least restrictive means of intervention

necessary to meet the needs of the conserved person. The “least restrictive means of intervention” means intervention that is sufficient to provide, within the resources available to the conserved person, either from his or her own estate or from private or public assistance, for a conserved person’s personal needs or property management while affording the conserved person the greatest amount of independence and self-determination. **The conserved person shall retain all rights and authority not expressly assigned to the conservator.**

## **MAY A PERSON NAME A CONSERVATOR IN ADVANCE OF INCAPACITY?**

Yes. Prior to becoming incapable, a person may name a future conservator by executing a document with the same formality and requirements necessary for executing a will.

## **WHAT IS TEMPORARY CONSERVATORSHIP?**

The laws of Connecticut provide for the possibility that an individual may be in need of a conservator on a temporary basis. Any person considered by the Court to have sufficient interest in the welfare of the respondent may petition for appointment of a temporary conservator. The necessary forms may be obtained from the Probate Court. In addition to the application, the Court is required to receive a physician's report on the respondent's condition. However, this report may be waived in certain circumstances.

The Court will hold a hearing on the application following the appointment of an attorney and notice to the respondent, the respondent’s next of kin, and the respondent’s attorney. The respondent shall be given notice at least five days before the hearing, and the hearing must be held within seven days of the filing of the application (excluding Saturdays, Sundays, and holidays), unless the Court continues the hearing.

In order to appoint a temporary conservator, the Court must find by clear and convincing evidence that: (1) the respondent is incapable of managing his or her affairs or incapable of caring for himself or herself, (2) immediate and irreparable harm to the mental or physical health or financial or legal affairs of the respondent will result if a temporary conservator is not appointed, and (3) appointment of a temporary conservator is the least restrictive means of intervention available to prevent such harm.

In making the appointment, the Court shall limit the temporary conservator’s duties and authority to the circumstances that gave rise to the application. The Court shall make specific findings, by clear and convincing evidence, of the immediate and irreparable harm that will be prevented by the appointment of a temporary conservator and that support the appointment of a temporary conservator. In making such specific findings, the judge must consider the respondent’s wishes, his or her abilities, any prior appointment of a health care representative or other person legally acting on his behalf, available support services, and any other relevant evidence.

A temporary conservator may be appointed on an emergency basis if, after receiving evidence, the judge determines that the delay caused by giving notice and appointing an attorney would cause immediate and irreparable harm to the respondent’s mental or physical health or financial and legal affairs. In the decree, the judge must specifically state why the emergency appointment was necessary. Immediately following the emergency appointment, the Court must schedule a hearing to be held within three days (excluding Saturdays, Sundays, and holidays). The respondent shall be given notice of the hearing not more than 48 hours after the emergency appointment. At the hearing, the Court may confirm or revoke the temporary conservatorship, or the judge may modify the duties and authority assigned under the emergency appointment.

A temporary conservatorship will expire in 30 days, unless an application for involuntary conservatorship

is filed while the temporary conservatorship is in effect. If such an application is filed, the Court may extend the appointment of the temporary conservator until disposition of the application for involuntary conservatorship or for an additional 30 days, whichever occurs first. The Court may also terminate the appointment of a temporary conservator if the conditions that led to the application for temporary conservatorship no longer exist. In no event will the appointment of a temporary conservator be in effect for more than 60 days from the date of the initial appointment. Upon termination of the temporary conservatorship, the temporary conservator must file a Conservator's Report (form PC-371) and, if applicable, a final accounting.

## **WHAT IS A VOLUNTARY CONSERVATORSHIP?**

The supervisory relationship of the Court over the appointed conservator has given rise to another type of conservatorship. This is termed "voluntary representation" or voluntary conservatorship and is used when a person who is not legally incapable would like another person to manage his or her affairs, subject to oversight by the Court. In most cases, voluntary representation results in appointment of a conservator of the estate, but it could also involve appointment of a conservator of the person.

Before appointing a conservator in voluntary proceedings, the Probate Court in the district in which the individual resides or is domiciled will hold a hearing on the Application for Voluntary Representation by Conservator (form PC-301). The person requesting the voluntary conservatorship must be present at the hearing, or, if attendance at the hearing is not possible, the judge must visit the person. After hearing the reasons for the individual's request for a conservator, the Court may grant voluntary representation for the individual without making a finding of incapacity. A conservator, usually of the respondent's choice, is then appointed. Since this relationship is voluntary, the conserved person may terminate the conservatorship with 30 days' notice to the Court. A conservator appointed under the voluntary process has the same duties and authority as a conservator appointed in involuntary proceedings.

## **HOW IS A CONSERVATOR APPOINTED IN INVOLUNTARY PROCEEDINGS?**

Any person alleging that a person is incapable of managing his or her affairs or incapable of caring for himself or herself may file an Application for Appointment of Conservator (form PC-300). The petitioner must file the application in the Probate Court in the district in which the respondent resides, is domiciled, or is located at the time of the filing of the application. There is a criminal penalty for filing a fraudulent or malicious application or for testifying fraudulently as to a person's incapacity, temporary or otherwise.

The Probate Court will hold a hearing within 30 days of receipt of the application. The hearing may be continued to a later date if good cause is shown for postponing the hearing. A state marshal or other authorized person will make personal service of the notice of hearing on the respondent. The respondent's spouse will also receive personal service, if he or she is not the applicant, except as provided by statute (C.G.S. §45a-649).

If the respondent is unable to request or obtain an attorney, the Court will appoint one. Compensation for the attorney's services will be paid by the Probate Court Administration Fund if the respondent cannot afford to pay for counsel. The respondent has a right to be present at the hearing, and it may be held at a place other than the Probate Court if that would facilitate his attendance.

At the hearing for involuntary representation, the Court shall receive evidence regarding the respondent's condition, the respondent's capacity to care for himself or herself or to manage his or her affairs, and the respondent's ability to meet his or her needs without the appointment of a conservator. Unless it is waived by

the Court, the petitioner is required to present medical evidence about the respondent's condition and its effect on the respondent's ability to care for himself or herself or to manage his or her affairs from one or more physicians licensed to practice medicine in Connecticut. The physician(s) must have examined the respondent within 45 days of the hearing. In certain circumstances, the Court may waive the requirement of medical evidence, but the judge must state the reason for doing so.

In addition to the medical evidence provided by the petitioner, the Court may, if it finds it necessary, order the examination of the respondent by another physician, a psychiatrist, or a psychologist. However, the respondent may refuse to undergo any examination ordered by the Court. The fees for such an examination will be assessed against the petitioner, the respondent, or the party requesting the exam. If the party is unable to pay for the examination, payment will be made by the Probate Court Administration Fund.

If the Court finds by clear and convincing evidence that the respondent is incapable of managing his or her affairs, that his or her affairs cannot be managed adequately without the appointment of a conservator, and that the appointment of a conservator is the least restrictive means of intervention available to assist him or her in managing his or her affairs, the Court may appoint a conservator of the estate.

Likewise, if the Court finds by clear and convincing evidence that the respondent is incapable of caring for himself or herself, that he or she cannot be cared for adequately without the appointment of a conservator, and that the appointment of a conservator is the least restrictive means of intervention available to assist him or her in caring for himself or herself, the Court may appoint a conservator of the person.

When determining whether a conservator should be appointed, the Court will consider the following factors: (1) the abilities of the respondent; (2) the respondent's capacity to understand and articulate an informed preference regarding the care of his or her person or the management of his or her affairs; (3) any relevant and material information obtained from the respondent; (4) evidence of the respondent's past preferences and life style choices; (5) the respondent's cultural background; (6) the desirability of maintaining continuity in the respondent's life and environment; (7) whether the respondent had previously made adequate alternative arrangements for the care of his or her person or for the management of his or her affairs, including, but not limited to, the execution of a durable power of attorney, springing power of attorney, the appointment of a health care representative\* or health care agent, the execution of a living will or trust or the execution of any other similar document; (8) any relevant and material evidence from the respondent's family and any other person regarding the respondent's past practices and preferences; and (9) any supportive services, technologies or other means that are available to assist the respondent in meeting his or her needs.

*\*Please see the section entitled "What Are the Duties of the Conservator of the Person?" for an important note about the designation of a health care representative.*

Appointment of a conservator of the estate in involuntary proceedings has the effect of nullifying any power of attorney previously granted by the respondent (who is referred to as the "conserved person" after a conservator is appointed) and any voluntary conservatorship previously established.

#### *Placement in an Institution for Long-Term Care/Reporting Requirements*

If the conservator determines that the conserved person needs to be placed in an institution for long-term care\*, he must first file a report (form PC-371A) with the Probate Court that made the appointment. However, if the placement will be made because of the conserved person's discharge from a hospital, the conservator may make the placement before filing the report. Under these circumstances, the conservator must file the report within five days of making the placement, and he must include a statement in the report

about the hospital discharge and related circumstances requiring the conserved person's placement in an institution for long-term care.

The report must state the basis for the conservator's determination about the placement, the community resources that were considered to avoid the placement, and the reasons why the conserved person's physical, mental, and psychosocial needs cannot be met in a less restrictive and more integrated setting. Community resources to be considered include area agencies on aging, the Department of Social Services, the Office of Protection and Advocacy for Persons with Disabilities, the Department of Mental Health and Addiction Services, the Department of Developmental Services, independent living centers, residential care homes, and congregate or subsidized housing. The conservator must give notice of the placement and a copy of the report to the conserved person, the conserved person's attorney, and any other interested parties as determined by the Court.

*\*An "institution for long-term care" is defined as a facility that has been "federally certified as a skilled nursing facility, an intermediate care facility, a residential care home, an extended care facility, a nursing home, a rest home, and a rehabilitation hospital or facility."*

#### *Initial Hearing on the Report and Placement*

The Court is required to hold a hearing to consider the report. However, the conserved person has the right to waive the hearing if his attorney has consulted with him or her and has filed a record of the waiver with the Court. If, after the hearing, the conservator obtains permission of the Court for the intended placement, the conservator may make such placement. If the placement was related to the conserved person's discharge from a hospital, as discussed above, the placement cannot continue unless the Court orders it after a hearing.

#### *Right of Conserved Person to Request Additional Hearings on Long-Term Placement*

A conserved person who has been placed in an institution for long-term care may request a hearing to determine the availability of a less restrictive placement at any time. However, the Court shall not be required to conduct more than three hearings in the year following the initial placement hearing. If, after the hearing, the Court determines that the conserved person's needs can be met in a less restrictive and more integrated setting within the resources available to the conserved person, the Court will order that he or she be moved to such a setting.

#### **MAY THE PROBATE COURT'S DECISION BE APPEALED?**

Any party involved in the conservatorship proceeding who is aggrieved by the Court's decision may appeal to the Superior Court not later than 45 days after the mailing of an order, denial, or decree.

#### **WHAT ARE THE COSTS ASSOCIATED WITH THE APPLICATION FOR CONSERVATORSHIP?**

A court entry fee of \$150.00 may be charged to the person applying to the Probate Court for voluntary, involuntary, or temporary conservatorship. The respondent must pay for an attorney to represent him or her at the hearing. If the respondent is unable to pay for the services of an attorney, the cost of such services will be paid from the Probate Court Administration Fund.

If a conservator is appointed, the conserved person's assets will be used to pay for the charges listed below. If a conservator is **not** appointed, the petitioner will pay for these charges in addition to the application fee.

- (1) the cost of personal service (involuntary proceedings)
- (2) the recording of any documents
- (3) notices in excess of two with respect to any hearing or continued hearing
- (4) certified or registered mailing of notices, if required
- (5) making and certifying copies of documents

If it would cause undue delay or hardship on the petitioner's part, the Court may postpone or waive payment of the entry fee and other charges incurred in connection with the conservatorship. If the Court finds that the petitioner is indigent, all fees and costs will be waived.

### **WHO MAY BE APPOINTED CONSERVATOR?**

Although it is the petitioner's responsibility to suggest an appropriate person, the Court determines whom to appoint as conservator. The conservator will often be a relative or friend of the respondent who is willing and able to carry out the duties of a conservator. In considering whom to appoint, the Court must consider: (1) the extent to which a proposed conservator has knowledge of the conserved person's preferences regarding the care of his or her person or the management of his or her affairs, (2) the ability of the proposed conservator to carry out the duties, responsibilities, and powers of a conservator, (3) the costs of the proposed conservatorship to the estate of the conserved person, (4) the proposed conservator's commitment to promoting the conserved person's welfare and independence, and (5) any existing or potential conflicts of interest of the proposed conservator.

The Commissioner of Social Services may be appointed conservator of the estate and/or conservator of the person if no suitable conservator can be found, and the respondent meets certain guidelines. He must be 60 years of age or older, and his liquid assets, excluding burial insurance in an amount up to \$1,500.00, cannot exceed \$1,500.00 at the time of the Commissioner's appointment as conservator.

### **VISITATION**

Any parent of an adult person with mental retardation or a mental disability for whom a conservator of the person or a guardian has been appointed may file a motion for visitation with the Probate Court that has jurisdiction over the conservatorship or guardianship. After notice and hearing, the Court may grant an order of visitation pursuant to the provisions of C.G.S. §45a-598. The order must contain a schedule specifying the date(s), time(s) and place(s) of visits (including overnight visits, if permitted) and any other conditions that the judge believes to be in the best interest of the conserved person.

### **WHAT ARE THE DUTIES OF THE CONSERVATOR OF THE ESTATE?**

The conservator of the estate is responsible for supervising the financial affairs of the conserved person as ordered by the Court. The conservator shall use the least restrictive means of intervention in the exercise of his or her duties and authority.

Within two months of appointment, the conservator must complete an inventory of the conserved person's property and assets. In preparing the inventory, the conservator must obtain an appraisal of the fair market value as of the date of appointment as conservator, of all property, both real and personal, in which the



conserved person has a legal interest. Jointly owned property, such as a bank account, must also be appraised and its value stated on the inventory.

The conservator must transfer any bank accounts in the conserved person's name to the name of the estate (i.e. Estate of Samuel E. Jones; John Doe, Conservator) and notify the bank of the appointment as conservator. If there are other assets in the conserved person's name, such as stocks and bonds, the financial institutions and/or corporations involved should be notified of the conservator's appointment and requested to direct income payments to the conservator of the estate. The conservator should obtain a Fiduciary's Probate Certificate (form PC-450) from the Court for this purpose. In addition, the conservator is required to notify and make a return of personal property to the town assessor in any town where the conserved person owns taxable personal property. The conservator must also file a Notice for Land Records/Appointment of Conservator (form PC-350) in any town where the conserved person owns real estate. This form is also available from the Probate Court.

The ongoing responsibility of the conservator is to use the assets of the conserved person's estate to support the conserved person and any members of the conserved person's family whom the conserved person is legally liable to support. A hearing is required to determine the amount of support for family members. When an application for spousal support is filed, the person filing the application must certify to the Court that a copy of the application and accompanying attachments have been sent to the Commissioner of Social Services. The Court will provide notice to the Commissioner at least 15 business days before the hearing, and the Commissioner (or his designee) has the right to appear at the hearing to present the Commissioner's position on the application. The conservator is responsible for paying the conserved person's bills and taxes and collecting debts owed to the conserved person.

The law regulates the investments that the conservator is permitted to make on behalf of the conserved person. Investments received by the conservator at the time of appointment may be retained unless otherwise ordered by the Probate Court or unless retention is clearly imprudent. Questions regarding permissible investments should be directed to legal counsel and the Probate Court. A recently issued Fiduciary's Probate Certificate (form PC-450) is usually required in order to negotiate the transfer of any asset belonging to the conserved person. When negotiating the assets of the conserved person, the conservator signs his or her name as conservator of the estate of the conserved person. Under certain circumstances, conservators may be permitted to make gifts on behalf of the conserved person from estate funds, but the conservator must receive prior authorization from the Probate Court.

As the ward's funds are exhausted, it may be necessary to apply for State assistance under Medicaid (Title 19). **This is an extremely technical legal procedure, and the greatest care possible must be exercised in applying for such coverage. When in doubt, a qualified professional should be consulted BEFORE any major transactions are contemplated.**

The conservator of the estate may be required by the Court to file a periodic account (form PC-441) annually in the Probate Court. Although there are exceptions, the statute generally requires an accounting at least once in every three-year period and more often if the Court directs. The Court will notify interested parties and hold a hearing on the account. The Court will charge a fee based upon the size of the conservatorship estate.

## **WHAT ARE THE DUTIES OF THE CONSERVATOR OF THE PERSON?**

The conservator of the person shall have the duties and authority expressly assigned by the Court, which may include: (1) the duty and responsibility for the general custody of the conserved person; (2) the authority

to establish the conserved person's residence in the state; (3) the authority to give consent for the conserved person's medical or other professional care, counsel, treatment, or service\*; (4) the duty to provide for the care, comfort, and maintenance of the conserved person; and (5) the duty to take reasonable care of the conserved person's personal effects.

*\*If the respondent has designated a health care representative, the conservator shall be bound by all health care decisions properly made by the health care representative, unless there is a court order to the contrary or unless certain circumstances exist, as described in C.G.S. §19a-580e(b), as amended. The health care representative combines the duties of (and replaced) the "health care agent" and "attorney-in-fact for health care decisions" as of October 1, 2006. However, advance directives properly executed before October 1, 2006 remain in full force and effect.*

The conservator may also be granted the authority to apply for entitlement programs for which the conserved person may be eligible and to file an application in the Probate Court to determine a conserved person's competency to vote in a primary, referendum, or election. In addition, the conserved person shall not be granted a marriage license without the written consent of the conservator.

In carrying out the duties and authority assigned by the Court, the conservator of the person shall exercise such duties and authority in a manner that is the least restrictive means of intervention and shall (1) assist the conserved person in removing obstacles to independence, (2) assist the conserved person in achieving self-reliance, (3) ascertain the conserved person's views, (4) make decisions in conformance with the conserved person's reasonable and informed express preferences, (5) make all reasonable efforts to ascertain the health care instructions and other wishes of the conserved person, and (6) make decisions in conformance with (A) the conserved person's expressed health care preferences, including health care instructions and other wishes, as provided by statute, or (B) a health care decision of a health care representative. The conservator shall afford the conserved person the opportunity to participate meaningfully in decision-making in accordance with the conserved person's abilities and shall delegate to the conserved person reasonable responsibility for decisions affecting such conserved person's well being.

Please also note that, in addition to his or her responsibilities relating to the care of the conserved person, the conservator of the person must report at least annually on the conserved person's condition by filing a Conservator's Report (form PC-371) with the Probate Court. The report shall describe the condition of the conserved person, the efforts made to encourage the independence of the conserved person, and the conservator's statement indicating whether the appointment of the conservator is the least restrictive means of intervention for managing the conserved person's needs. The duties, responsibility, and authority assigned to the conservator of the person shall be carried out within the resources available to the conserved person, either through the conserved person's own estate or through private or public assistance.

**WHEN MUST A CONSERVATOR HAVE SPECIFIC AUTHORITY FROM THE PROBATE COURT BEFORE TAKING ACTION?**

The conservator must always make application to the Probate Court for permission to:

- (1) place the conserved person in an institution for long-term care\* (form PC-371A);
- (2) change the conserved person's residence;
- (3) change the conserved person's tenancy or lease;
- (4) dispose of or sell household furnishings;
- (5) sell, mortgage, or transfer real estate (form PC-400);
- (6) make gifts or transfer income or principal from the conserved person's estate;
- (7) apply a portion of the conserved person's estate to the spouse;
- (8) invest the conserved person's funds in insurance and annuity contracts;

(9) consent to psychiatric medication treatment for a conserved person.

*\*See discussion of placements related to hospital discharge in the section entitled "Placement in an Institution for Long-Term Care/Reporting Requirements."*

Please note that this list is not all-encompassing. There may be other situations that require the conservator to consult with the Probate Court before taking action. For example, the conservator should consult with the Probate Court before making expenditures other than routine payments.

**NOTE:** The conservator of the person *shall not* have the power or authority to have the conserved person committed to any institution for the treatment of the mentally ill, except under certain circumstances.

## **HOW IS A CONSERVATORSHIP TERMINATED?**

Conservatorships are most commonly terminated due to the death of the conserved person or depletion of the estate's assets. If the estate's assets at the time of the conserved person's death are not sufficient to pay the debts incurred during the conserved person's lifetime, the funeral and burial expenses, and any probate or other administration expenses necessary to settlement of the estate, the conservator of the estate may pay these expenses and list them for credit on the conservator's final account (form PC-441). In other cases, the assets of the estate must be delivered to the executor or administrator of the conserved person's estate upon the conserved person's death.

A conserved person may, at any time, petition the Probate Court for the termination of a conservatorship. The conserved person is not required to present medical evidence at the hearing. If the Court finds that the conserved person is capable of managing his or her own affairs, the Court shall order that the conservatorship of the estate be terminated and that the remaining portion of his or her property be restored to him or her. If the Court finds that the conserved person is capable of caring for himself or herself, the Court shall order that the conservatorship of the person be terminated.

The conserved person and his attorney will also be notified annually of the conserved person's right to a hearing, and, if requested, a hearing will be held.

Following notice and a hearing, the Probate Court may also terminate a conservatorship of the estate if it finds that the conserved person's assets do not exceed the asset limits allowed for the state supplement program. Currently, these asset limits are \$1,600.00 for an individual and \$2,400.00 for a married couple. In the event that the conservatorship is terminated, the conservator of the estate must distribute the conserved person's remaining assets to the conservator of the person or, if there is none, to another suitable person.

The Court shall review each conservatorship not later than one year after the conservatorship was ordered and not less than every three years after such initial one-year review. After each review, the Court shall continue, modify, or terminate the conservatorship. Within 45 days of a request from the Court, the conservator and a physician licensed to practice medicine in Connecticut must each submit a written report to the Court on the condition of the conserved person. The physician must examine the conserved person within the 45-day period preceding the date of the submission of the report. On receipt of the written reports, the Court shall provide copies to the conserved person and his or her attorney. Not later than 30 days after receipt of the reports, the attorney for the conserved person must notify the Court that he or she has met with the conserved person and shall inform the Court whether a hearing is being requested.

If, after receipt of the reports, the Court finds by clear and convincing evidence that the conserved person continues to be incapable of managing his or her affairs or continues to be incapable of caring for himself or

herself, as the case may be, and that there are no less restrictive means available to assist the conserved person in managing his or her affairs or caring for himself or herself, as the case may be, the Court shall continue or modify the conservatorship under the terms and conditions of the appointment. If the Court does not make such a finding of continued incapacity by clear and convincing evidence, the Court shall terminate the conservatorship. Although it is not required, the Court, in its discretion, may hold a hearing on the status of the conserved person. In addition, the Court must hold a hearing within 30 days if the conserved person, the conserved person's attorney, or the conservator requests a hearing. If the conserved person is unable to request or obtain an attorney, the Court will appoint one. Compensation for the attorney's services will be paid by the Probate Court Administration Fund if the conserved person cannot afford to pay for counsel.

After a conservatorship of the estate has been terminated, the conservator is required to file a final account (form PC-441) in the Probate Court within two months of the termination. The Court will hold a hearing on the account, following notice to the conserved person and the conserved person's attorney.

### **IS A CONSERVATOR ELIGIBLE TO RECEIVE COMPENSATION FOR HIS OR HER SERVICES?**

A conservator of either the person or estate is allowed to charge the estate a fee for the services rendered to the conserved person. The fee must be found to be reasonable by the Probate Court and is limited by statute in certain cases.

### **WHAT IS A PROBATE BOND AND WHEN IS IT REQUIRED FOR A CONSERVATOR?**

A probate bond is a form of surety purchased by a conservator to guarantee protection of the conserved person's assets. A conservator of the estate is required to purchase a bond usually equal in value to the liquid assets of the conserved person's estate. (Please note the following exception to this bonding requirement. If the conserved person's assets are less than \$20,000, or if the amount of the conserved person's estate not restricted by Probate Court order is less than \$10,000, the judge may waive the bond.) The Court may accept a lower bond if a conservator is willing to accept a restriction on the control of assets. If the estate's assets change in value, or if the estate is a small one and the spouse or next of kin is the conservator, the value of the bond may be increased or decreased accordingly. A conservator of the person may also be required to purchase a probate bond. In all cases, the Probate Court sets the amount of the bond required in accordance with rules adopted by the Connecticut Supreme Court.

### **CONCLUSION**

The relationship between conservator and conserved person is one characterized by trust. Essential elements in the relationship are confidence on one side and active good faith on the other. The law looks on a conservator as a trustee, and, as such, the conservator cannot neglect the conserved person's interests. As a general rule, any profit or advantage that arises from the conservator's management of the conserved person's estate accrues to the conserved person, not to the conservator.

The seriousness of the conservator's responsibility for the conserved person's person and/or property cannot be overstated. For this reason, the conservator should always consult with the Probate Court or legal counsel when making decisions that may have serious consequences for the conserved person.

**RECORD OF IMPORTANT DATES**

Dates

Appointment as Conservator	.....
Inventory, form PC-440, (Due two months from date of appointment)	.....
Periodic Account, form PC-441, (Due at least once in every three-year period; more often if ordered by the Court)	.....
Conservator's Report, form PC-371 (Due annually)	.....
Conservator's Report/Placement or Request for Hearing on Placement, form PC-371A	.....
Mandatory Review by Probate Court (After first year and at least every three years thereafter)	.....
Nondomiciliary Report/Conservatorship, form PC-371B (At least every 60 days, if applicable)	.....
Renewal Date of Probate Bond	.....
Termination of Conservatorship	.....
Final Account, PC-441 (Due no later than two months from date of termination of conservatorship)	.....

**RECORD OF HEARING**

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