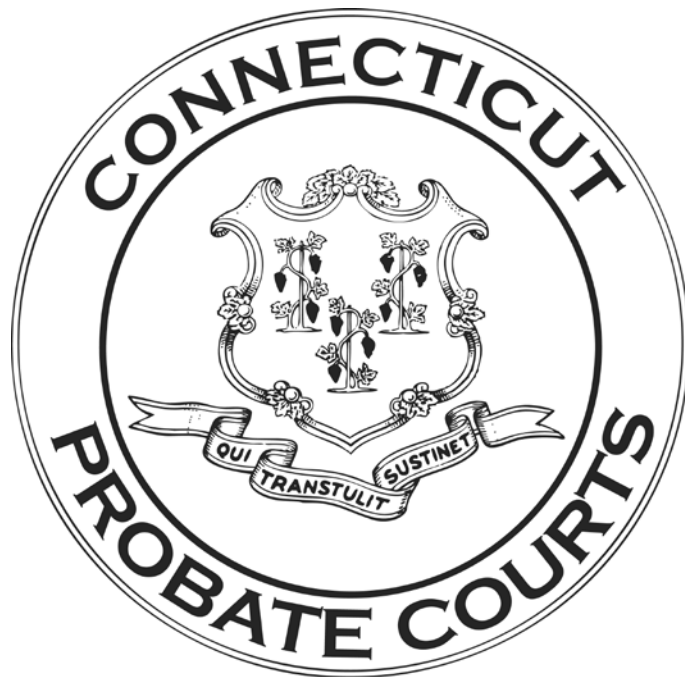


**PROBATE COURT USER GUIDE**  
**FOR CONSERVATORS**



PUBLISHED BY  
OFFICE OF THE  
PROBATE COURT ADMINISTRATOR  
STATE OF CONNECTICUT

COMPLIMENTS OF YOUR LOCAL PROBATE COURT

## INTRODUCTION

A family member or other concerned person who believes that a loved one is unable to care for himself or herself may petition the Probate Court to establish a conservatorship for the individual. The court will follow careful procedures to protect the rights of the individual while determining whether the individual is capable of making decisions about personal and medical care and managing his or her finances. If the court concludes that the individual is not capable, it will appoint an appropriate person to serve as conservator and will oversee the conservator's activities on an ongoing basis.

This user guide is intended 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 on the conservatorship process and not as a substitute for competent professional advice.

In addition to this user guide, self-study training programs for conservators are available at [ctprobate.gov](http://ctprobate.gov). The training programs provide a comprehensive overview of the responsibilities of a conservator. The self-study format enables a conservator to view the program when convenient and in installments that are suitable for the conservator's schedule. All new conservators should complete the training program within 30 days of appointment.

Forms for conservatorships are available online at [ctprobate.gov](http://ctprobate.gov). Click on "Forms." Forms are also available at the Probate Courts.

## **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 who is determined by the Probate Court to be incapable of managing his or her finances or unable to care for himself or herself. A conservator may also be appointed for a person who voluntarily requests such assistance.

The term “respondent” refers to a person for whom a conservatorship petition has been filed. If the Probate Court determines that the respondent is incapable and appoints a conservator, he or she is then referred to as a “conserved person.”

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 to meet essential requirements for personal needs. These needs may include, but are not limited to, food, clothing, shelter, health care and safety. A “conservator of the estate” is appointed to supervise the finances of an individual who is found by the court to be incapable of doing so himself or herself to the extent that property will be wasted unless adequate property management is provided. This may include, but is not limited to, actions to manage assets, income and public assistance benefits.

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, a nonprofit organization or a business. However, a hospital or nursing home cannot be appointed as conservator.

When a conservator is appointed, a successor conservator can be named as well. The successor conservator replaces the appointed conservator if the appointed conservator resigns, is removed, is deemed incapable or dies. If such an event occurs, the Probate Court will issue a decree confirming the authority of the successor conservator.

An adult with intellectual disability may be in need of a conservator of the estate to manage his or her financial affairs, while a guardian of the person with intellectual disability is appropriate to oversee his or her personal affairs. *For more information, please see the Probate Court User Guide: Persons with Intellectual Disability.*

## **Where does a person petition for the appointment of a conservator?**

In Connecticut, the Probate Courts have sole jurisdiction over the appointment of conservators. A person filing a petition for a conservatorship must apply to the Probate Court for the probate district where the respondent’s permanent home is located or where the respondent currently resides or is currently located.

If the conserved person moved to Connecticut within the past six months, it may be necessary to file for conservatorship in the state where the respondent previously resided.

## **Does the court have the authority to grant a conservatorship if Connecticut is not the respondent's home state?**

There may be circumstances under which the court is able to appoint a conservator even if the respondent has not lived in Connecticut for six months. For example, the court could appoint a conservator if the respondent has significant connections with Connecticut or if the home state has declined to act because it has found that the Connecticut court is the more appropriate location to hear the matter.

Even if the court would not otherwise have jurisdiction, a Connecticut Probate Court could, in an emergency, appoint a temporary conservator for a respondent who is physically present in this state. A temporary conservatorship lasts no longer than 60 days.

## **Can a conservator be appointed for a minor?**

A conservator may be appointed only for a person who is legally an adult. That means that the person must have reached the age of 18. Prior to that time, the minor's parents or other guardian have the legal authority to make decisions for the minor.

A parent or guardian who anticipates that the child will require a conservator upon attaining the age of majority may file a petition for appointment of an involuntary conservator up to 180 days prior to the date the minor will turn 18. The court may hold a hearing on the petition no sooner than 30 days before the minor's 18<sup>th</sup> birthday. If the court grants the petition, the appointment of conservator will not take effect until the minor reaches age 18.

## **May a person name a conservator in advance of incapacity?**

Yes. A person may name a future conservator by executing a document with the same requirements necessary for executing a will. A person may also name a successor conservator in case the primary conservator resigns, is removed, is deemed incapable or dies.

## **What are the costs associated with the petition for conservatorship?**

The entry fee to petition the Probate Court for conservatorship is \$225. In addition, the petitioner in an involuntary conservatorship proceeding is responsible for the cost of service of notice on the respondent and costs for hearing notices, copies and recording documents. The petitioner may be reimbursed for fees and expenses from the conserved person's assets if a conservator of the estate is appointed.

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 expenses. If the court finds that the petitioner is indigent, fees and expenses will be waived.

The respondent bears the cost of his or her attorney, unless he or she is indigent, in which case the cost of the services will be paid from the Probate Court Administration Fund.

## **What is temporary conservatorship?**

The laws of Connecticut provide for the possibility that an individual may, in an emergency, 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 online at [ctprobate.gov](http://ctprobate.gov) or from the Probate Court. In addition to the petition, the petitioner must arrange for a physician to examine the respondent and file an evaluation with the court. This report may be waived in certain circumstances.

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

The court will appoint a temporary conservator only if it finds 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 petition. 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 the respondent's behalf, available support services and any other relevant evidence.

If, after receiving evidence, the judge determines that the delay caused by giving notice and appointing an attorney would result in immediate and irreparable harm to the respondent's mental or physical health or financial and legal affairs, a temporary conservator may be appointed without a hearing. 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 a petition for involuntary conservatorship is filed while the temporary conservatorship is in effect. If such a petition is filed, the court may extend the appointment of the temporary conservator until disposition of the petition for involuntary conservatorship or for an additional 30 days, whichever occurs first. The court may also terminate a temporary conservatorship if the conditions that led to the appointment of a temporary conservator 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, PC-371*, and, if applicable, a final financial report or account.

## **What is a voluntary conservatorship?**

The benefits of court supervision over conservators have given rise to another type of conservatorship. This is termed “voluntary representation” or voluntary conservatorship and is used when a person requests a conservator 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 voluntary conservator, the Probate Court for the district in which the individual resides, is domiciled or is currently located will hold a hearing on the *Petition for Voluntary Representation by Conservator, 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, with no 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.

As discussed on pages 13 and 14 of this booklet, an involuntary conservator has certain responsibilities when the conserved person owns firearms. In the case of a voluntary conservatorship, in which there is no finding of incapacity, the same legal requirements may not apply. However, the voluntary conservator should consider whether, under the circumstances, similar steps should be taken. It should also be noted that, notwithstanding the lack of a finding of incapacity, if the individual was committed by a court for treatment of psychiatric disabilities or voluntarily admitted to a hospital for psychiatric disabilities within the prior six months, the conserved person is prohibited from purchasing or possessing firearms, and the conservator should act accordingly.

## **How is a conservator appointed in involuntary proceedings?**

Any person alleging that an individual is incapable of managing his or her affairs or incapable of caring for himself or herself may file a *Petition for Appointment of Conservator, PC-300*. The petitioner must file the petition in the Probate Court for the district where the respondent's permanent home is located or where the respondent currently resides or is currently located. There is a criminal penalty for filing a fraudulent or malicious petition or for giving fraudulent testimony regarding a person's incapacity.

The Probate Court will hold a hearing within 30 days of receipt of the petition. 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 deliver the notice of hearing to the respondent by hand delivery. The respondent's spouse will also receive notice by

hand delivery unless he or she is not the petitioner. Children or other relatives may receive notice by mail.

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 the attorney. 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 or her attendance.

At the hearing for involuntary representation, the court will receive evidence regarding the respondent's condition, the respondent's capacity to care for himself or herself or to manage his or her finances and the respondent's ability to meet his or her needs without the appointment of a conservator. The petitioner is required to present medical evidence about the respondent's condition 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.

In addition to the medical evidence provided by the petitioner, the court may order the examination of the respondent by another physician, psychiatrist or psychologist. If the respondent is a person with intellectual disability, the petitioner may present psychological evidence from a licensed psychologist instead of medical evidence from a physician. However, the respondent may refuse to undergo any examination.

If the court finds by clear and convincing evidence that the respondent is incapable of managing his or her finances, that his or her finances 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, 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, 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 finances.
- (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.
- (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.*

### **Who may be appointed conservator?**

The conserved person may designate a person to serve as conservator. The court will appoint that person unless he or she is unable or unwilling to serve, or the court finds substantial reason to disqualify that person. 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 the absence of a designation, the petitioner should suggest an appropriate person. Unless the respondent has designated a proposed conservator, the court will consider the following factors when appointing a conservator:

- (1) The extent to which a proposed conservator has knowledge of the conserved person's preferences.
- (2) The ability of the proposed conservator to carry out the duties of a conservator.
- (3) The costs of the proposed conservatorship.
- (4) The proposed conservator's commitment to promoting the conserved person's welfare and independence.
- (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. The conserved person must be 60 years of age or older, and his or her liquid assets, excluding burial insurance in an amount up to \$1,500, cannot exceed \$1,500 at the time of the Commissioner's appointment as conservator.

### **What is a probate bond and when is it required for a conservatorship?**

A conservator of the estate will generally be required to provide a probate bond. The bond is, in effect, an insurance policy that protects the conserved person's assets by



insuring the proper performance of the conservator. Probate bonds may be obtained from an insurance agent.

The amount of the bond will be determined by the court. Typically, it will be in an amount equal to the value of the liquid assets under the conservator's control. The amount of the bond may be reduced to the extent of assets placed in restricted accounts.

*For more information about restrictions on assets, see section 35.7 of the Probate Court Rules of Procedure.*

The probate bond may be waived entirely if any of the following apply:

- (1) The value of the assets is less than \$20,000, or the amount of the unrestricted assets is less than \$10,000.
- (2) In a voluntary conservatorship, the petitioner waives the requirement of a probate bond.
- (3) In an involuntary conservatorship, the respondent or conserved person executed an advance designation of conservator and excused the requirement of a probate bond.

*For more information about probate bonds, see Rule 35 of the Probate Court Rules of Procedure.*

## **Does a power of attorney terminate when the court appoints a conservator?**

The law governing the relationship between conservatorships and powers of attorney changed on October 1, 2016. If a conservator of the estate was appointed before October 1, 2016, the establishment of the conservatorship automatically terminated any power of attorney.

Beginning on October 1, 2016, a Probate Court may limit, suspend or terminate a power of attorney when establishing a conservatorship. If the court grants a conservator of the estate broad authority over all of the conserved person's assets, it will generally suspend or terminate any power of attorney. (Termination means that the power of attorney is permanently void. Suspension means that the power of attorney may be reinstated at some future time, such as when the conservatorship is terminated.) The court may also limit the power of attorney so that the agent under the power of attorney handles only specified areas of responsibility, and other duties are assigned to the conservator of the estate.

## **What are the limitations on a conservator's authority?**

The court assigns 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, for a conserved person's personal needs

or financial management while affording the conserved person the greatest amount of independence and self-determination. **The conserved person retains all rights and authority not expressly assigned to the conservator.**

## **What are the duties of the conservator of the estate?**

The conservator of the estate is responsible for supervising the finances of the conserved person as ordered by the court. The conservator must maintain strict separation of his or her own assets from the conserved person's assets. 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 assets. In preparing the inventory, the conservator must determine the fair market value of all the conserved person's assets as of the date of appointment as conservator. Jointly owned property, such as a bank account, must also be listed on the inventory. When filing the inventory, the conservator must provide copies to all other parties and their attorneys. The copies may be sent by mail, fax, email or hand delivery.

The conservator must retitle any bank accounts, brokerage accounts and other types of financial accounts in the conserved person's name to the name of the estate (e.g., John Doe, Conservator of Estate of Samuel E. Jones). The conservator should obtain a *Fiduciary's Probate Certificate/Conservatorship, PC-450C*, from the court for this purpose. The conservator must also file a *Notice for Land Records/Appointment of Conservator of the Estate, 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 conserved person's income and assets to support the conserved person. The conservator is responsible for paying the conserved person's bills and taxes and collecting debts owed to the conserved person. The conservator may not use any of the conserved person's income and assets to support the conserved person's spouse without prior Probate Court approval. When petitioning for approval of spousal support, the conservator must send a copy of the petition and accompanying attachments to the Commissioner of Social Services. The Commissioner (or his designee) has the right to appear at the hearing to present the Commissioner's position on the petition.

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 an attorney. The conservator may also petition the court for approval to make or retain particular investments.

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.

If the conservator determines that the conserved person's funds may be exhausted in paying for care, 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, the conservator should consult an attorney BEFORE any major transactions are contemplated.**

When the conserved person is expected to become eligible for Medicaid within the next 12 months, the conservator must develop a spend-down plan to ensure that all administration expenses (the conservator's compensation, attorney's fees and Probate Court fees) are paid out of the conserved person's income and assets. The conservator may not fund a prepaid funeral until all administration expenses are paid.

The conservator of the estate is required to report to the Probate Court periodically concerning the management of the estate. The first report is due one year following appointment. Subsequent reports are due at least once every three years and more often if the court directs. In most cases this requirement can be satisfied by filing a *Financial Report/Conservator/Guardian, PC-442*, under Rule 37 of the Probate Court Rules of Procedure. The court may, if the circumstances require, direct the conservator to file a *Fiduciary's Final or Periodic Account/Conservator/Guardian, PC-441*, under Rule 38. The conservator must provide copies of the financial report or account to each other party and attorney of record. The copies may be sent by mail, fax, email or hand delivery. The court will notify interested parties and hold a hearing on the report or account. The court will charge a fee based on the size of the conservatorship estate.

### **Can a conservator be audited?**

Yes. The Probate Court has the power to order an audit of a conservator of the estate if the court finds that in-depth scrutiny of the conserved person's finances is necessary. In addition, the Probate Court Administrator has the authority to randomly audit conservator accounts and financial reports. Each audit is conducted by a certified public accountant, who files a written report upon completion of the audit. The purpose of the audit is to verify that the conservator's financial records support the figures on the account or report. The conservator is required to cooperate with the auditor and provide access to all of the conservator's records.

### **What records is a conservator of the estate required to maintain?**

The conservator must maintain records of all transactions. No financial records should be destroyed until the conservator's final financial report or account has been approved by the court, the appeal period has passed and any appeal is concluded. The records should also be retained for any applicable records retention period required by law.

*See section 36.13 of the Probate Court Rules of Procedure for more information about records that should be maintained.*

### **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) Making decisions about personal care, comfort and maintenance.
- (2) Making decisions about medical or other professional care (**not** including commitment to a hospital for treatment of psychiatric disability).
- (3) Establishing or changing the conserved person's residence, but only with prior court approval.
- (4) Safeguarding personal effects.

*\*If the respondent has designated a health care representative, the conservator is bound by all health care decisions properly made by the health care representative, unless there is a court order to the contrary or unless one of the exceptions set forth under C.G.S. section 19a-580e (b) applies.*

The conservator may also be granted the authority to apply for entitlement programs for which the conserved person may be eligible and to file a petition in the Probate Court to determine a conserved person's competency to vote in a primary, referendum or election. In addition, the conserved person cannot obtain 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 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.
- (6) Make decisions in conformance with the conserved person's expressed health care preferences, including health care instructions and other wishes and the health care decisions 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 the person's well-being.

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, PC-371*, with the Probate Court. The report should 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.

## Visitation

Any parent of a person with a psychiatric disability for whom a conservator of the person has been appointed may file a motion for visitation. After notice and hearing, the court may order visitation pursuant to the provisions of C.G.S. section 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 interests of the conserved person.

## When must a conservator have specific authority from the Probate Court before taking action?

The conservator must always petition the Probate Court for permission to:

- (1) Place the conserved person in an institution for long-term care\* (*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 (*PC-400*).
  - (6) Make gifts from the conserved person's income or assets.
  - (7) Apply a portion of the conserved person's income or assets to a spouse.
  - (8) Invest the conserved person's funds in insurance and annuity contracts.
  - (9) Consent to psychiatric medication.
  - (10) Execute a document to determine the manner in which the remains of a conserved person will be disposed of after death.
  - (11) View, change or terminate social media accounts, electronic communications or other digital assets.
- } (*PC-303*)

Even when prior approval is not required, a conservator may submit a petition to the court to obtain approval of a proposed action. Seeking prior approval can be helpful in making non-routine decisions or resolving issues when interested parties disagree about the best course of action.

**NOTE:** A conservator of the person **does not** have the power or authority to have the conserved person committed to a hospital for the treatment of psychiatric disability.

### *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 or she must first file a *Conservator's Report and Petition for Placement in an Institution for Long-Term Care, 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 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 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.

*\*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. The conservator may make the placement only with the court's approval. If the placement resulted from the conserved person's discharge from a hospital, 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. 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.

### **What are the conservator's responsibilities if the conserved person owns firearms?**

A person whom a court determines to be incapable of managing his or her own affairs is prohibited by law from purchasing or possessing firearms, ammunition and electronic defense weapons, such as stun guns. A conservator appointed to represent an incapable person has a responsibility to determine whether the conserved person owns or has access to firearms and to take appropriate steps to prevent access by the conserved person. While the legal requirements described below apply only to involuntary conservatorships, conservators appointed in voluntary proceedings should

consider following the same procedures and are required to do so if the conserved person has ever been committed for treatment of psychiatric disability or was voluntarily admitted to a hospital for the treatment of psychiatric disabilities within the preceding six months.

Immediately upon appointment, a conservator should determine whether firearms are present at the conserved person's residence. If so, the conservator must insure that the conserved person's weapons and ammunition are not available to the conserved person or others. The installation of trigger locks or placement of the weapons and ammunition in a locked gun safe or other secure location should be undertaken as soon as possible.

If there are firearms on the premises that are owned by others, the conservator should immediately communicate with the owner and take all reasonable steps to insure that the conserved person does not have access to them. The owner could be subject to civil or criminal liability for improper storage of a firearm if he or she knows that a person residing on the premises is ineligible to possess a firearm.

Within two days after the Probate Court determines that a person is incapable, the conservator must sell or transfer the conserved person's weapons to a person who is eligible to receive them or surrender the weapons to the Department of Emergency Services and Public Protection (DESPP). Unless an eligible transferee is immediately available, the conservator should promptly contact DESPP to arrange for the surrender of the weapons. The conservator may arrange for the sale or transfer of the firearms to a person legally eligible to receive them up to one year following the date of their surrender to DESPP.

Conservators should be aware that it is unlawful for an individual to carry a handgun on his or her person in this state without a permit. A conservator should not personally transport any handgun owned by the conserved person unless the conservator has a valid Connecticut permit.

If the conserved person holds a permit to carry a pistol or revolver, a pistol or revolver eligibility certificate, a long gun eligibility certificate or an ammunition certificate, the permit or certificate may be revoked by DESPP following the appointment of a conservator. Upon receipt of a notice of revocation from DESPP, the conservator should attempt to locate the permit or certificate and surrender it to DESPP within five days.

The sale or transfer of firearms is highly regulated and complex, requiring considerable caution on the part of the conservator. The requirements may differ, depending on whether hand guns or long guns are involved. Note that an assault weapon may not be sold or transferred to any person in this state, except a licensed gun dealer. Machine guns and other fully automatic weapons are governed by federal law. Before pursuing any sale or transfer, the conservator should contact the department's Special Licensing and Firearms Unit, which may be reached at (860) 685-8400 or (888) 335-8438.

## **Can a conservatorship be transferred if the person under conservatorship moves within Connecticut?**

Yes. When a person under conservatorship moves to a different part of the state, the matter may be transferred to the Probate Court that has jurisdiction in the new district.

## **Can a conservatorship be transferred to another state?**

Yes. Connecticut has adopted the Uniform Adult Protective Proceedings Jurisdiction Act. The act provides mechanisms for the transfer of conservatorships between states. Through the cooperation of the courts of the two states, a conservatorship established in Connecticut could be transferred to another state, or vice versa, to arrange for the relocation of the conserved person.

## **How is a conservatorship terminated?**

A conserved person may, at any time, petition the Probate Court to terminate 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 will order that the conservatorship of the estate be terminated and that control over his or her property be restored. If the court finds that the conserved person is capable of caring for himself or herself, the court will order that the conservatorship of the person be terminated.

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, the asset limits are \$1,600 for an individual and \$2,400 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.

Conservatorships are most commonly terminated due to the death of the conserved person. 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 settle the estate, the conservator of the estate may pay these expenses and list them on the final *Financial Report Conservator/Guardian, PC-442, and PC-442A* or *Fiduciary's Periodic or Final Account Conservator/Guardian, 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.

The court may also terminate a conservatorship as a result of a review. The court reviews 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 will 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. On receipt of the written reports, the court will 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 inform the court whether a hearing is requested.

If, after receipt of the reports, the court finds by clear and convincing evidence that the conserved person continues to be incapable and that there are no less restrictive means available to assist the conserved person, the court may continue or modify the conservatorship. The court will terminate the conservatorship if it finds that the conserved person is no longer incapable.

After a conservatorship of the estate has been terminated, the conservator is required to file a final financial report (*PC-442 and PC-442A*) or account (*PC-441*) 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 may charge the estate a fee for the services rendered to the conserved person. The fee is subject to Probate Court review and approval and is limited by statute in certain circumstances.

### **Probate Appeals**

Any party involved in a conservatorship proceeding who is aggrieved by the court's decision may appeal to the Superior Court. The deadline for filing the appeal is generally either 30 or 45 days after the date on which the court mailed the order, depending on the type of case.

### **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 conservator must work to promote the conserved person's preferences, independence and care in the least restrictive environment. A conservator of the estate must maintain strict separation between his or her own assets and the assets of the conserved person.

The seriousness of the conservator's responsibility for the conserved person and/or the conserved person's finances cannot be overstated. The conservator should always consult an attorney or file a petition with the Probate Court seeking advance approval when making significant decisions for the conserved person.

## PROBATE COURT FORMS

### Conservatorships

Petition for Appointment of Conservator .....	PC-300
Application for Appointment of Conservator/ Supplemental Form .....	PC-300A
Petition for Voluntary Representation by Conservator .....	PC-301
Petition for Appointment of Conservator of the Estate for Non-Domiciliary with Real or Tangible Personal Property in the State .....	PC-3011
Petition/Appointment of Temporary Conservator .....	PC-302
Petition to Terminate Tenancy or Lease/Change Residence/Sell or Dispose of Household Furnishings of Person Under Conservatorship.....	PC-303
Petition for Provisional Order of Transfer of Conservatorship to Other State .....	PC-304
Petition for Provisional Order Accepting Transfer of Conservatorship from Other State .....	PC-305
Request to Register Out-of-State Conservatorship.....	PC-306
Motion to Transfer File/Conservatorship Matter .....	PC-307
Petition/Determination of Competency to Vote Re: Person Under Conservatorship .....	PC-308
Petition/Authority to Consent to Psychiatric Medication Treatment for Patient with Psychiatric Disabilities .....	PC-309
Affidavit/Appointment of Commissioner of Social Services as Conservator.....	PC-310
Notice of Intent to Register Conservatorship in Other State .....	PC-334
Physician's Evaluation/Conservatorship .....	PC-370
Acceptance of Appointment and Agreement of Conservator of Estate .....	PC-3704
Acceptance of Appointment and Agreement of Conservator of Person.....	PC-3705
Conservator's Report.....	PC-371
Conservator's Report and Petition for Placement in an Institution for Long-Term Care .....	PC-371A
Psychologist's Evaluation/Conservatorship of Person with Intellectual Disability .....	PC-372
Fiduciary's Periodic or Final Account/ Conservator/Guardian .....	PC-441
Financial Report/Conservator/Guardian.....	PC-442
Schedule A: Proposed Distribution/Final Financial Report Cons./Guardian.....	PC-442A
Petition for Order Authorizing Psychiatric Medication Treatment for Non-Consenting Patient with Psychiatric Disabilities .....	PC-906

# Record of Important Dates

## Dates

Appointment as Conservator	.....
Inventory, PC-440, (Due two months from date of appointment)	.....
Financial Report, PC-442 and PC-442A or Periodic or Final Account, PC-441 (An annual financial report or account is due after the first year following appointment and at least once in every three years thereafter or more often if ordered by the court)	.....
Conservator's Report, PC-371 (Due annually)	.....
Conservator's Report and Petition for Placement in an Institution for Long-Term Care, PC-371A	.....
Mandatory Review by Probate Court (After first year and every three years thereafter)	.....
Renewal Date of Probate Bond	.....
Termination of Conservatorship	.....
Final Financial Report, PC-442 and PC-442A or Final or Periodic Account, PC-441 (Due no later than two months from date of termination of conservatorship)	.....