

Colorado Judicial Branch



PROTECTIVE PROCEEDINGS TASK FORCE

REPORT TO THE CHIEF JUSTICE AND STATE COURT ADMINISTRATOR

February 28, 2007

Protective Proceedings Task Force Committee Members

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Honorable Jon Kolomitz
Honorable Jean Stewart

District Judge, 16th Judicial District
Probate Judge, Denver Probate Court

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Consultant, Retired Probate Magistrate
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Probate Registrar, 18th Judicial District
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County Judge, 1st Judicial District
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Additional Participants Requested by the Task Force

Honorable Barbara Hughes
Judy Kinney

Magistrate, 4th Judicial District
Probate Registrar, 1st Judicial District

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Introduction

A report entitled "Oversight of Probate Cases – Colorado Judicial Branch Performance Audit – September 2006" prepared by Clifton Gunderson LLP has identified deficiencies in the supervision process of the Judicial Branch. The report focused upon guardians and conservators because the auditors recognized that courts have a higher level of responsibility for monitoring these appointees.

On November 29, 2006, Chief Justice Mullarkey established the Protective Proceedings Task Force charged with the task of establishing effective procedures and controls for administering and monitoring conservatorships, guardianships, disability and special needs trusts, protective arrangements and single transactions, restricted accounts and personal injury and insurance settlements to the extent deemed necessary.

The Task Force surveyed all Judicial Districts requesting information about its procedures for managing probate cases. Over 90% of the Districts responded to the survey. The Task Force met on January 19 and February 22, 2007 to review the audit recommendations, consider the results of the statewide survey of court practices, and to formulate suggestions for improving court management of guardian and conservator cases. Many of the suggestions contained in this report can be implemented by September 1, 2007. Others require further study, computer programming changes and/or legislation and may take several months before being finalized.

SUPREME COURT OF COLORADO

OFFICE OF THE CHIEF JUSTICE

**Order establishing the
Protective Proceedings Task Force
Charging Document**

The "Colorado Uniform Guardianship and Protective Proceedings Act, section 15-14-101, et seq. C.R.S. (2006) requires each of the 22 judicial districts to establish a system for monitoring conservators and guardians, including the filing and review of required guardian and conservator reports. Although the statute does not specify the monitoring system courts must employ, the statute does allow the courts to appoint an appropriate person to review the reports, interview the protected person, and make any other investigation as directed by the court. Additionally, courts have the authority to remove a guardian or conservator, or to modify or severely limit the powers granted to the guardian or conservator to safeguard the interests of the protected person and the estate.

Pursuant to statute, guardians and conservators have certain duties they are required to perform, and courts have a responsibility to insure those duties are being performed on behalf the protected person.

A report entitled "Oversight of Probate Cases—Colorado Judicial Branch Performance Audit—September 2006" ("the Audit Report") prepared by Clifton Gunderson LLP has identified deficiencies in the supervision processes of the Judicial Branch. Although the Audit Report also noted that the supervisory responsibilities of the courts extend to personal representatives and trustees, it focused upon guardians and conservators "[b]ecause courts have a higher level of responsibility for monitoring . . . these appointees." (Audit, page 14.) Further, courts are empowered to authorize and to monitor other types of proceedings for persons with legal disabilities.

Therefore, the Protective Proceedings Task Force is hereby established and charged with the task of establishing effective procedures and controls for administering and monitoring conservatorships, guardianships, disability and special needs trusts, protective arrangements and single transactions, restricted accounts, and personal injury and insurance settlements to the extend deemed necessary.

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To this end, the Task Force is assigned to:

- study and attempt to address the concerns raised in the Audit Report of the Colorado probate courts;
- determine if it is appropriate to establish minimum standards that fiduciaries must follow in their accounting of financial activities of their estates;
- determine if it is appropriate to establish minimum standards for guardians to follow regarding their reporting functions and other duties;
- design and develop ideas for providing training programs for conservators and guardians in conjunction with the Colorado Bar Association, the state and national organizations dealing with guardians and conservators, such that they are knowingly able to perform their duties, and timely and accurately file accounting statements and other reports required for court review;
- consider the necessity for guidelines for approving and monitoring disability and special needs trusts, protective arrangements and single transactions, restricted accounts, and personal injury and insurance settlements;
- develop processes to adequately review and audit annual accounting statements prepared by conservators to ensure that expenditures are exclusively for support and care of the protected person. This may include:
 - development of analytical reports as part of ICON that can be easily used by the court;
 - establish training for judges and court staff on how to evaluate financial reports and statements
 - establish more effective judicial review procedures to more easily detect discrepancies
- establish procedures for courts to follow when discrepancies are identified (i.e., what corrective action the courts should take)
- consider and recommend to the State Court Administrator any legislation needed for implementation of any appropriate changes
- the Task Force shall prepare a report to the Chief Justice and State Court Administrator by the February 20, 2007, on the short term plan and needs that should be implemented immediately by CJD or policy, and a long term plan to address the issues as set forth in the audit.

The following are appointed to serve as members of the Task Force:

Shelly Agos
Honorable Rebecca Bromley
Honorable David Dickinson
Sandra Franklin
Honorable Sharon Hansen
Cyndi Hauber
Honorable Jon Kolomitz

John Lauce
Lauris Laue
Lee Cole
Jerry Marroney
Honorable Frederic Rogers
Honorable Caren Stanley
Honorable Jean Stewart

Done this 29th day of November, 2006.


Mary J. Mullarkey, Chief Justice

RECOMMENDATION NO. 1:

The Judicial Branch should improve the consistency and effectiveness of court review of conservator and guardian plans and reports by establishing minimum review procedures and by requiring guardian and conservator appointees to maintain documentation and report detailed information on their fees and expenses. These procedures and reviews could include:

- a. Establishing standard procedures for courts to identify and follow up on missing guardian and conservator plans and reports.*
- b. Requiring guardians and conservators to maintain supporting documentation for fees and expenses and improving guardian and conservator annual reporting forms to ensure that reports contain consistent and specific detail regarding the activities of guardians and conservators.*
- c. Developing a risk-based model for scheduling reviews of conservator and guardian reports to ensure that high-risk cases are reviewed more frequently, lower-risk cases receive less frequent review, and that all courts are reviewing reports in a systematic manner. The risk-based model should incorporate a requirement that the courts periodically request and review supporting documentation related to professional guardian and conservator compensation and expenditures*
- d. Developing standardized review forms for evaluating guardian and conservator reports. The review instructions should include a list of risk factors to assist in identifying unreasonable or questionable expenses that require further supporting documentation. Risk factors could include expenses over a certain threshold, expenditures or activities that deviate from the financial or personal care plan on file, or expenses inherently at risk for fraud and abuse (e.g., meals, travel, credit card reimbursements, or purchases of equipment that the protected person likely could not use). Individuals responsible for reviewing reports should be trained to conduct such reviews.*
- e. Exploring the implementation of formal volunteer and court visitor programs to provide assistance and or additional expertise to the courts in reviewing guardian and conservator reports. Volunteer programs should include procedures for the recruitment, training, and coordination of volunteers.*
- f. Establishing standard court practices for overseeing guardian and conservator appointees, making recommendations for improved procedures, and providing technical assistance as needed.*

After reviewing the survey results, the Task Force recognizes that procedures for monitoring the filing of guardian and conservator reports and plans vary across the state. To help standardize procedures, the Task Force began developing a list of Best Business Practices. The initial list of Best Business Practices will be complete by September 1, 2007. A draft set of Best Business Practices is set forth in Appendix A to this report. The Task Force anticipates a continuous review of court procedures to identify areas where Judicial Branch operations may be improved. Many of the items identified on the list will be implemented by that date. The list of Best Practices will be supplemented by instructions on their use, such as:

- a)** Detailed instructions for clerks to follow when entering and monitoring review dates. (See Best Practices item # 1 and # 2)
- b)** Procedures for clerks to follow when a guardian or conservator fails to file plans, reports, etc., by the due date. (See Best Practices item # 3)

- c) Recommendations for court imposed sanctions when the guardian or conservator does not respond to the clerks' reminders. (See Best Practices item # 4)

To insure consistent implementation of the Best Practices, training for clerks and judges will be necessary. The Task Force anticipates that regional trainers will be able to assist with this however; additional funding may be necessary to adequately address the training component.

In addition to creating Best Practice standards for entering, monitoring, and following up on the guardian/conservator's reporting responsibilities, the Task Force is developing several forms and checklists for the clerks and judges use so that the process is as efficient as possible. The draft of these forms will be complete by July 1, 2007. Some of the forms may require Bar Association or Supreme Court approval, which may take additional time to obtain. The list of forms is found at Appendix B.

The Task Force recommends that the dates for filing various reports be standardized so that guardians and conservators have fewer deadlines to remember and clerks' review will be simplified. For example, the initial guardian report is due within 60 days after appointment, the inventory and financial plan is due within 90 days. The Task Force recommends a statutory change, requiring all three filings to become due 90 days after appointment. In the meantime, the Task Force recommends implementing this standard as a Best Practice.

Once reports are received, the Task Force recommends following a standard format for their review. To aid the reviewer, the Task Force is developing a Conservator Review Checklist (see Draft Appendix B, Form 10) and a Guardian Review Checklist to be completed during the review of each report. The checklists highlight areas of concern identified by experienced staff and judges throughout the state and was developed as a way of minimizing problems that "slip through the cracks".

Because staffing limitations do not permit each court to review every report and plan, the Task Force recommends identifying those cases that are more or less likely to become problems. The Task Force recommends that judges create a Risk Factor Rating for each case immediately after appointing a guardian or conservator. The Risk Factor Rating would be used by courts to establish review frequency standards, review detail criteria, and to run reports. For example, a case with a high Risk Factor Rating might be set for an in-depth review every year; whereas a case with a low Risk Factor Rating might be set for an in-depth review every 4 years or it may receive a quick review every year. The application of the Risk Factor Rating would be flexible and allow each court to modify the monitoring of these cases based on current staffing and budget allocations. Additionally, courts could adjust the Risk Factor Rating during the administration of a case as circumstances warranted.

The Task Force needs additional time to determine what categories should be considered in the analysis and what type of rating factor will be assigned to each case, e.g. Low, Medium or High Risk or a specific rating number. A Risk Factor Rating Checklist has been drafted by the Task Force (see Draft Appendix B, Form 11) to aid the on-going discussion. The Task Force recommends that the Risk Factor Rating be used to create management reports. The current Judicial Branch computer system does not provide for this feature, consequently computer programming changes are necessary. In addition, further study is necessary to determine whether the Risk Factor Rating should be kept confidential and, if so, how to keep it confidential while, at the same time, entering the Rating into the courts' computer system.

Appointee Compensation

RECOMMENDATION NO. 2:

The Judicial Branch should consider a range of options that assist courts with monitoring and determining the reasonableness of fees charged by guardians and conservators. Options could include:

a. Establishing guidance for appropriate fees. This could include a total maximum fee amount for typical types of guardian and conservator services or different fees for services requiring different levels of expertise. Alternatively, the Judicial Branch could develop blended rates with established maximums to reflect the range of professional and nonprofessional services that the guardian and conservator will provide.

b. Requiring guardians and conservators to provide a detailed accounting of their fees and services, including explanations for any costs exceeding established fee guidelines, for review by the court.

Once feasible options have been identified, the Judicial Branch should implement policies for courts to consistently apply when establishing and approving fees and for appointees to use when charging and documenting fees. This can be accomplished either through Chief Justice Court Directive or by proposing statutory change, as appropriate.

While some districts indicated they would appreciate some guidance regarding fees, the committee believes it is improper for the courts to set fees for independent service providers. See *Goldfarb v. Virginia State Bar*, 421 U.S. 773 (1975) that found minimum fee schedules set by a county bar association constituted price-fixing and violated the Sherman Antitrust Act.

The Task Force believes it would be helpful to establish criteria to assist those who review conservator reports and petitions for approval of fees (if filed separately from the report). To that end, the Task Force developed a Conservator's Review Checklist (see Draft Appendix B, Form 10) that includes the following questions:

- Is the Conservator requesting fees?
- Did the Conservator indicate the hourly rate charged? (Fees that fall outside a range of what are usual and customary in the community may need to be scrutinized more closely.)
- Did the Conservator detail the services provided and dates upon which they were provided? (Without giving proper detail, neither interested persons nor the court can determine whether the services were reasonable and necessary.)
- If the Conservator is a family member, did he/she charge for things that are typically considered family obligations, such as dinner with the protected person, etc? (This is a red flag and should not ordinarily be approved.)
- Did the Conservator charge in the upper end of the range for tasks that could have been delegated to someone who would have charged less? (For example, a professional conservator should not charge his/her highest rate for performing tasks such as shoveling snow or running everyday errands.)

The Task Force also recommends the creation of a Guardian's and Conservator's User Manual to inform Guardian's and Conservator's about the standards related to fiduciary fees. (See Appendix C, Draft Table of Contents of the User Manual).

Appointee Screening and Selection

RECOMMENDATION NO. 3:

The Judicial Branch should improve procedures for ensuring that professional and nonprofessional guardians and conservators are qualified to perform their duties toward protected persons effectively and in accordance with the law, proposing legislation as needed. More specifically, the Judicial Branch should consider:

- a. Developing minimum training requirements, continued professional education, and registration or certification for professional guardians and conservators.*
- b. Developing minimum qualifications and training requirements for nonprofessional guardians and conservators to ensure these appointees are competent, understand their duties, and have the information necessary to access resources needed to carry out their responsibilities.*
- c. Establishing a pool of qualified professional conservator and guardian appointees that meet minimum qualifications. Individuals included in the pool should be reviewed periodically to ensure that they continue to meet these qualifications*

The Task Force agrees that well-trained guardians and conservators are needed but does not believe it is appropriate for the Judicial Branch to establish a training program because this may be perceived as a conflict of interest. Furthermore, the Court has the authority to direct the fiduciary to obtain proper training from independent sources.

As an alternative to establishing a training program, the Task Force recommends developing User Manuals to assist the newly appointed guardian and conservator to understand their responsibilities. The manuals will include information specific to their case, such as filing due dates, and general information, such as definitions, duties and responsibilities, frequently asked questions, etc. They will also include helpful forms that can be copied and, where appropriate, filed with the court. A key component of the User Manuals is the Acknowledgment of Responsibilities form (See Draft Appendix B Form 1). The form lists in one place and in simple terms many of the guardian/conservator's duties, particularly those related to filing deadlines, and it requires the guardian/conservator to acknowledge that they have been given this information. Samples of completed forms will also be included in the Manual. A sub-committee will be formed to develop the User Manuals. The sub-committee will be comprised of Judicial Branch employees, members of the bar, and other interest groups. Within the User Manuals, the Task Force plans to provide an extensive resource guide that will include training information currently available from the Bar Association and other sources.

The Task Force recognizes that many newly appointed Conservators/Guardians would better understand their duties if they were able to spend a few minutes with a staff person trained in this area, such as a protective proceeding facilitator (similar to a family court facilitator for domestic relations cases). The Task Force recommends further study of how this service could be provided. The Task Force is currently considering three ways to provide this service: **1)** creating probate facilitator positions in each judicial district, **2)** expanding the probate registrar's duties, or **3)** creating an Office of Probate Services within the Office of the State Court Administrator to provide statewide assistance on probate matters.

The Task Force recommends further study on the topic of professional guardian/conservator licensing, training, and establishing a pool of qualified professionals.

A number of the deficiencies associated with selection of guardians and conservators may have been addressed by the recent statutory requirement that nominees submit a current credit report and/or submit to a background check. When the audit was performed, this requirement had been in effect for only one year and its positive impact may not have been measurable so soon after enactment.

Interested Parties

RECOMMENDATION NO. 4:

The Judicial Branch should improve communications used to inform interested parties of their rights and responsibilities related to oversight of trustees and personal representatives. This could include establishing templates that instruct interested parties on the procedures and timelines they must follow to petition the court for review of the activities of a personal representative or trustee.

One of the purposes of the Uniform Probate Code is to shift the responsibility of protecting the rights of interested persons in trusts and decedents' estates from the courts to the persons themselves. The Task Force recognizes that interested persons often do not understand their role and rights. As a Best Business Practice, the Task Force plans to develop a document describing interested persons' roles, as well as the procedure for bringing concerns to the court's attention. A part of the Best Business Practice will be to determine the best manner for getting this document into the hands of interested persons and to recommend that all courts enter the name and address of each interested person into the computer system.

Although this recommendation is aimed at trusts and decedents' estates, the issue raised applies to all Guardianships and Conservatorships as well, and this Best Business Practice should be applicable to all probate cases.

System Improvements

RECOMMENDATION NO. 5:

The Judicial Branch should strengthen controls over the management of probate cases by making improvements to its case management system. This should include:

- a. Adding fields to track professional and nonprofessional appointees, type of professional appointee, and “active” and “inactive” cases.*
- b. Incorporating edits to ensure courts enter all critical data consistently and that data contained in fields are updated when needed to reflect the current status of cases.*
- c. Creating system flags to identify outstanding reports and notify appointees if reports are late.*
- d. Evaluating the costs and benefits of creating a system for electronic data input of guardian care plans, conservator financial plans, and annual and final reports. If developed, the system could include programming to notify the court and appointees when the activities or expenditures vary significantly from approved plans and request that the appointee provide additional information.*

By consistently following the Best Practices discussed in earlier sections, critical data will be entered and monitored. In order to assist clerks with these tasks, the committee recommends the following programming enhancements be incorporated during the development of the new computer system called JPOD. Sub-committees will be assigned to specifically address programming issues in the area of Probate. Some of the issues identified by the Task Force are as follows:

- a)** Automate the issuance of various notices and orders.
- b)** Establish a “Maintenance” or “Administration” category for all Conservatorship and Guardianship cases upon the issuances of letters. This category will identify cases that require court review of annual reports. Cases will only be in closed status when the Guardianship/Conservatorship is terminated.
- c)** Create Risk Factor Rating field.

Whether to create a system for electronic data input of guardian care plans, conservator financial plans and annual reports is an area the Task Force believes requires further study. The Task Force recognizes the potential value of such a system, but has concerns about its feasibility.

APPENDIX A

BEST PRACTICES

(Sub-committees will determine completion and implementation dates.)

1. Develop standardized procedure for entering case information, filing deadlines, and judges' review of reports into the computer system. Provide case status BRIO query to Chief Judges and District Administrators.
2. Rigorously monitor filing deadlines.
3. Notify Guardians/Conservators who have missed filing deadlines.
4. Sanction Guardians/Conservators who refuse to comply with orders regarding filing deadlines.
5. Use **Restricted Account Log** to monitor requests for withdrawal in cases where the conservator files frequent Petitions for Authority to Withdraw Funds.
6. When appointing Guardians and Conservators, set the deadline for filing the initial guardian's report, the inventory, and the financial plan on the same date. The standard filing date should be 90 days from the date of appointment, unless there is good reason to select another date.
7. Indicate the actual date in the order, rather than relying on the term "within ninety (90) days".
8. Require annual guardian reports to be filed on the anniversary date of the initial guardian's report rather than the anniversary date of the appointment. By incorporating items 6, 7, and 8, the case will have one follow-up date for most purposes. If parties wish to file on a calendar year, then they can motion the court with their request.
9. Require the initial guardian report, and the conservator's inventory and financial plan to all be filed on the same date: 90 days from the date of appointment.
10. Enter driver's license number and identifying information of guardian/conservator in eclipse so, if necessary, a sheriff will have the information necessary to personally serve the person if we need to issue a show cause order.
11. Ensure that the Order Appointing Guardian and Order Appointing Conservator, names all persons who are required to receive various notices, reports, and plans. The names of all shall be entered to the computer system to assist with the verification that such notices were properly given.
12. In appropriate cases, require the nominee to file a preliminary financial plan at or before the initial hearing.

APPENDIX B

PROPOSED CHECKLISTS AND FORMS

ALL FORMS ARE DRAFT

1. Acknowledgment of Responsibilities (JDF 40)
2. Motion for Approval of Financial Plan (JDF 41)
3. Order Regarding Motion for Approval of Financial Plan (JDF 42)
4. Delay Prevention Order (JDF 45)
5. Order to Show Cause (JDF 46)
6. Motion for Authority to Withdraw Funds (JDF 47)
7. Order Regarding Motion for Authority to Withdraw Funds (JDF 48)
8. Restricted Account Log (JDF 49)
9. Order Approving Personal Injury Settlement (JDF 53)
10. Conservator's Report Review Checklist (JDF 54)
11. Risk Factor Checklist (JDF 55)
12. Guardian/Conservator Time Tracking Sheet - to be developed.
13. Guardian's Report Review Checklist – to be developed.
14. Advisement to Interested Persons Regarding their Role and Responsibilities - to be developed.

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ IN THE MATTER OF THE ESTATE OF: _____ Protected Person	DRAFT ▲ COURT USE ONLY ▲ Case Number: Division: Courtroom:
ACKNOWLEDGMENT OF RESPONSIBILITIES <input type="checkbox"/> CONSERVATOR AND/OR <input type="checkbox"/> GUARDIAN	

I, _____ (full name) acknowledge that I was appointed as the Conservator and/or Guardian for _____ (full name of protected person) on _____ (date). With this appointment, I agree to comply with the statutory and court requirements and understand that I am responsible for preparing and filing reports and/or plans with the Court and all Interested Persons in the case. Letters will not be issued until this form is signed and provided to the Court.

General Information and Responsibilities

1. You are responsible for maintaining all receipts and documentation for the duration of the appointment, as the Court or any Interested Person in the case may request them at any time.
2. You are responsible for providing the Court with any changes with your mailing or email address within 30 days.
3. If funds must be placed in a restricted account, I understand that all withdrawals must be by court order.
 - Complete CPC 55 and return to the Court as documentation that the funds were deposited within 14 days or by _____ (date).
 - All requests for withdrawal must be in writing by submitting JDF 47.
4. I have received the following information to review regarding my responsibilities.
 - User manual for Guardians
 - User manual for Conservators
 - DVD/Video
 - Pamphlets
 - Attendance at mandatory training session on _____ (date).
5. I understand that the following reports and/or plans are due on _____ (date).
 - Financial Plan (CPC 29-FP)
 - Inventory (CPC 20)
6. I understand that the following reports and/or plans are due on _____ (date) and every year after.
 - Guardian Personal Care Plan (CPC 32-GPR).
 - Guardian Personal Care Plan for Minor (CPC 32-GRM).
 - Conservator's Report (CPC 29-CR).

My signature below indicates that I have read and understand my responsibilities as a newly appointing Guardian and/or Conservator.

Date: _____

Guardian and/or Conservator

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: Protected Person	DRAFT ▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division _____ Courtroom _____
MOTION FOR APPROVAL OF FINANCIAL PLAN	

I, _____ (Full Name of Conservator), move this Court to approve the Initial Amended Financial Plan filed pursuant to §15-14-318, C.R.S. on _____ (date).

As grounds therefore, the Conservator states the following:

1. The information contained in the Financial Plan is true and complete. The proposed plan is necessary to protect and manage the income and assets of the protected person.
2. The Financial Plan is based on the actual needs and best interests of the protected person.

I understand that interested persons have the right to respond to this Motion and the Financial Plan within 30 days of the date of service or by the date of any hearing on this Motion, whichever occurs first.

Date: _____

Signature of Conservator

Certificate of Service

I certify that a copy of the foregoing Motion for Approval of Financial Plan together with a copy of the Financial Plan was served on each of the following:

Name	Address	Date	Manner of Service*
------	---------	------	--------------------

*Insert hand delivery, first class U.S. Mail, certified U.S. Mail, E-filed, or Fax.

Signature of Person Certifying Service

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: Protected Person	DRAFT ▲ COURT USE ONLY ▲ <hr/> Case Number: Division: Courtroom:
ORDER REGARDING MOTION FOR APPROVAL OF FINANCIAL PLAN	

This matter comes before the Court on the Motion for Approval of Financial Plan filed on _____ (date). The Court, having reviewed the Motion, Financial Plan, and any responses received from interested persons, enters the following Orders:

The Motion for Approval of Financial Plan is **GRANTED**. The Conservator is directed to file an amended Financial Plan whenever there is a change in the circumstances that requires a substantial deviation from this accepted plan.

The Motion is **DENIED** for the following reasons:

The Conservator shall file an amended Financial Plan by _____ (date).

This matter is set for a hearing on _____ (date) at _____ (time) in the division identified above.

Date: _____

 Judge Magistrate

CERTIFICATE OF SERVICE

I certify that on _____ (date), I mailed, faxed, E-filed, or hand-delivered a copy of this Order to the following:

- Conservator
- Other: _____
- Other: _____
- Other: _____
- Other: _____

 Clerk

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: Protected Person	DRAFT ▲ COURT USE ONLY ▲ <hr/> Case Number: Division: Courtroom:
PROBATE DELAY PREVENTION ORDER	

To: _____ (Name of Conservator/Guardian)

It is the Court's responsibility to monitor the filing of Conservator and/or Guardian reports and plans. Upon review, the Court has determined that the following document(s) are delinquent.

- Inventory (CPC 20)
- Conservator's Report (CPC 29-CR)
- Financial Plan (CPC 29-FP)
- Guardian's Personal Care Plan (CPC 32-GR)
- Guardian's Personal Care Plan - Minor (CPC 32-GRM)
- Acknowledged Order for Deposit of Funds to Restricted Account (CPC 55)
- Decree of Final Discharge (CPC 26)
- Orders from Hearing held on _____ (date)
- Other: _____
- Other: _____
- Other: _____

The Court will review this case on or after _____ (date) and if the document(s) are not filed, the Court may issue a Show Cause Order requiring you to appear and explain the non-compliance.

The CPC forms listed above are available on the website listed below or you may wish to check the clerk's office to determine if they are available to purchase.

<http://www.courts.state.co.us/chs/court/forms/probate/probate.htm>

Date: _____

 Judge Magistrate Clerk

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: Protected Person	DRAFT ▲ COURT USE ONLY ▲ <hr/> Case Number: Division: Courtroom:
ORDER TO SHOW CAUSE	

You _____ (full name) are ordered to appear before this Court at the place, date and time listed below to show cause, if any you have, for why you should not be held in contempt of court for the failure and refusal to comply with the Delay Prevention Order issued on _____ (date) requiring you to submit various reports and documents to this Court on or before _____ (date).

Court Location: _____
 Date: _____ Time: _____

Please come prepared to explain to the Court why sanctions should not be imposed. Failure to appear will cause the Court to issue appropriate sanctions, which may include your removal as Guardian or Conservator and issuance of a bench warrant for your arrest.

Date: _____

 Judge Magistrate

RETURN OF SERVICE

I hereby certify that I am over the age of 18 years, and am not an interested party herein, and that I personally served a copy of the *Order to Show Cause* upon _____ (name) identified to me as the party in contempt herein, at:
 _____ (location)
 on _____ (date) _____ (time) by _____ (method of service).

 Signature

Subscribed and affirmed, or sworn to before me in the County of _____, State of _____, this _____ day of _____, 20 _____.

My Commission Expires: _____

 Notary Public/Clerk

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: <hr/> IN THE MATTER OF THE ESTATE OF: <input type="checkbox"/> Protected Person <input type="checkbox"/> Minor	DRAFT ▲ COURT USE ONLY ▲
Attorney or Party Without Attorney (Name and Address): Phone Number: _____ E-mail: _____ FAX Number: _____ Atty. Reg. #: _____	Case Number: Division Courtroom
MOTION TO WITHDRAW FUNDS	

I, _____ (full name of Conservator), respectfully request authority to withdraw \$ _____, on deposit in the restricted account(s) listed below:

Name and Address of Financial Institution	Account Number (last 4-digits only)	Amount
		\$
Total		\$

The funds are needed for the following reasons(s): invoices, receipts, documentation is attached.

The current balance(s) in the account(s) as of the date of this Motion is \$ _____. I have attached the current bank statement.

Date: _____

Signature of Conservator and/or Guardian or Attorney

Certificate of Service

I certify that a copy of the foregoing Motion to Withdraw Funds was served on each of the following:

Name	Address	Date	Manner of Service*
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*Insert hand delivery, first class U.S. Mail, certified U.S. Mail, E-filed, or Fax.

Signature of Person Certifying Service

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: <input type="checkbox"/> Protected Person <input type="checkbox"/> Minor	DRAFT ▲ COURT USE ONLY ▲ <hr/> Case Number: Division: Courtroom:
ORDER REGARDING MOTION TO WITHDRAW FUNDS	

This matter comes before the Court on the Motion to Withdraw Funds filed on _____ (date). The Court, having reviewed the Motion and supporting documentation, if attached, and any responses received from interested persons, enters the following Orders:

- The Motion is **GRANTED**. The Conservator is authorized to withdraw \$_____ from the account(s) specified in the Motion.
- The Conservator is required to file a receipt for the purchase with the Court within ten days.

The Motion is **DENIED** for the following reasons:

Additional Orders are as follows:

Date: _____

 Judge Magistrate

CERTIFICATE OF SERVICE

I certify that on _____ (date), I mailed, faxed, E-filed, or hand-delivered a copy of this Order to the following:

- Conservator and/or Guardian
- Other: _____
- Other: _____
- Other: _____
- Other: _____

 Clerk

<input type="checkbox"/> District Court <input type="checkbox"/> Denver Probate Court _____ County, Colorado Court Address: _____ <hr/> IN THE MATTER OF THE ESTATE OF: <input type="checkbox"/> Respondent <input type="checkbox"/> Minor	DRAFT ▲ COURT USE ONLY ▲
Case Number: _____ Division: _____ Courtroom: _____	<hr/> <div style="text-align: center;">ORDER APPROVING PERSONAL INJURY SETTLEMENT</div>

This matter comes before the Court after a hearing on _____ (date) regarding a Petition to Settle a Personal Injury Claim filed by _____ (Name of Petitioner).

The Court, having reviewed the Petition, testimony heard by the parties, and considered the statements of counsel, finds that venue is proper and that it would be in the best interests of the Respondent/Minor to settle the claim for injuries arising out of _____ that occurred on _____ (date).

The Court further finds that the appointment of a Conservator:

- Is not necessary since this matter deals with a small estate pursuant to §15-14-118, C.R.S.
- Is necessary and the powers shall be limited as set forth in the Order Appointing Conservator.

The Court orders that the Petitioner as Limited Conservator, Conservator, or Parent/Natural Guardian of the above-named minor, is authorized to accept \$ _____ in full settlement of the personal injury claim against _____ (full name). The Petitioner is authorized to execute the required releases to pay the following costs from the settlement funds:

The Court also orders the following:

- The settlement funds must be deposited in a federally insured restricted, interest-bearing investment account to be held until the minor reaches the age of 21, in accordance with the provision of the Order for Deposit of Funds to Restricted Account.
- The settlement funds will be administered by the Conservator or Limited Conservator in accordance with the provisions of the Order Appointing Conservator.
- The attorney fees of \$ _____ can be deducted from the settlement funds. The payment of the attorney fees will not be made until the Court has received an acknowledgment that the funds have been deposited in a restricted account or that the Court has approved the financial plan, if a financial plan is required.

Date: _____

 Judge Magistrate

CERTIFICATE OF SERVICE

I certify that on _____ (date), I mailed, faxed, E-filed, or hand-delivered a copy of this Order to the following:

- Conservator
- Respondent/Minor/Parent of Minor
- Other: _____
- Other: _____

 Clerk

Conservator's Review Checklist - DRAFT

In the Matter of the Estate of: _____ Case Number: _____
Full Name of Conservator: _____ Report Due Date: _____
Report for Period: Beginning Date: _____ to Ending Date: _____
Risk Factor: High Medium Low 1st Report

Financial Plan (CPC29-FP)

Plan filed Yes No N/A
Plan appears reasonable Yes No
Sent to all Interested Persons Yes No

Inventory (CPC 20)

Inventory filed Yes No N/A
Inventory signed before a Notary/Clerk Yes No
Sent to all Interested Persons Yes No

Conservator's Report (CPC 29-CR)

General:

1. The totals shows in all categories are 'added/subtracted" correctly. Yes No

Page 1:

2. Do the beginning balances reported in the Summary of Financial Activity and Summary of Net Worth agree to the ending balances from the last report? Yes No N/A – 1st Report
3. Do the balances in the summary agree to the detail information contained within the report? Yes No

Page 2:

4. Is there any information that has changed regarding the Conservator and/or Protected Person? Yes No
 The Conservator and/or Protected Person moving many times, may be an issue.
5. Are there any major changes to the Conservatorship addressed with Part I? Yes No
 If major changes are of concern, further information may be necessary.

Page 3 and 4:

6. Did the assets change significantly from the last report? Yes No If Yes, was the "Explanation of Difference" reasonable?
 If assets increased significantly, this may be due to additional income from the sale of property, etc. and a new financial plan may be necessary to ensure that the funds are secured. If assets decreased significantly, this may be due to excessive expenditures, which should be evaluated.
7. Did the liabilities change significantly from the last report? Yes No If Yes, was the "Explanation of Difference" reasonable?
 If liabilities increased significantly, this may be due to excessive charges on credit cards or some type of major purchase and additional documentation may be necessary. If liabilities decreased significantly, determine cause as it may be attributable to payoff of mortgage that supports the increase in assets, which is reasonable.

Page 4, 5, and 7:

Review page 7 to scan for any large amounts received and/or disbursed to assist you with your review of pages 4 and 5.

8. Are funds held in a restricted account? Yes No If Yes, the court has approved many of the expenditures.
9. Do the "Receipts/Income" reported appear reasonable based on the current status of the Protected Person? Yes No
 Review sources of income, for example gambling winnings may be questionable if excessive.
10. Do the "Disbursements/Expenses? Reported appear reasonable based on the current status of the Protected Person? Yes No
 Evaluate large disbursements, i.e. Big Screen TV and/or expenses that may not be appropriate for the Protected Person for example Mercedes Convertible for 85 year old with no current driver's license.

Page 6:

11. Did the Conservator indicate the hourly rate charged? Yes No
 Fees that fall outside a range that is usual and customary in the community may need to be scrutinized more closely.
12. Did the Conservator detail the services provided and dates upon which they were provided? Yes No
 Without giving proper detail, neither interested persons nor the Court can determine whether the services were reasonable and necessary.
13. If the Conservator is a family member, did he/she charge for things that are typically considered family obligations, such as dinner with the Protected Person, etc. Yes No
 This is a red flag and should not ordinarily be approved.
14. Did the Conservator charge in the upper end of the range for tasks that could have been delegated to someone who would have charged less? Yes No
 For example, a professional conservator should not charge his/her highest rates for performing tasks such as shoveling snow or running everyday errands.

Page 8:

15. Did the Conservator send report to all Interested Persons? Yes No
 Compare Certificate of Service to information on the computer or in the case file.
16. Did the Court receive any responses from any of the Interested Persons? Yes No
 Evaluate the issues presented and compare to the report to determine validity, as a hearing may be necessary.

Comments:

Review:	CPC 29-FP satisfactory	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	CPC 20 satisfactory	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A
	CPC 29-CR satisfactory	<input type="checkbox"/> Yes <input type="checkbox"/> No
	DPON to issue	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Hearing to be set	<input type="checkbox"/> Yes <input type="checkbox"/> No
	Additional review necessary	<input type="checkbox"/> Yes <input type="checkbox"/> No
	If Yes, assigned to _____ on _____ (date).	
	Court Employee or Professional	

Date: _____

Reviewed by: _____

Date: _____

Additional Review by: _____

Risk Factor Analysis Checklist - DRAFT

******Court Use Only******

In the Matter of the Estate of: _____ Case Number: _____

Full Name of Conservator and/or Guardian: _____

Initial Assessment Supplemental Assessment

Courts have full discretion to review all reports/plans, certain reports/plans based on a range of rating scores, or only those considered “high risk”. Some courts may not have resources to review all reports/plans requiring some type of review analysis. This assessment tool can assist courts in determining those cases that prompt a higher level of review and monitoring. Certainly, during the life of a Conservatorship and/or Guardianship case, a supplemental assessment may be necessary based on additional information received by the Court to re-evaluate the current rating score.

Criteria Evaluated	Risk (Check if Yes)	Comments
1. No Interested Person(s)		
2. Non-Professional Conservator an/or Guardian		
3. Personal Injury Settlement for Minor		
4. Inexperience of Pro Se		
5. Inexperience of Counsel		
6. Fiduciary Unbondable		
7. Credit Report Score Below xxx #		
8. Criminal History report identifies questionable offense(s)		
9. Parent is the Nominee		
10. Substantial funds not in a Restricted Account		
11. Large Estate		
12. Previous Reports not Filed Timely		
13. Other: _____		
14. Other: _____		
Total # of Boxes Checked		

Per my assessment of the criteria identified above, I find this case to have a risk rating of:

Low Medium High

Date: _____

 Judge Magistrate

APPENDIX C

USERS' MANUAL

TABLE OF CONTENTS

1. Acknowledgment Form (This is also a good place to place any Orders you receive from the Court.)
2. Definitions
3. General Information Regarding Your Appointment as a Conservator
4. FAQ's and Helpful Tips
5. Resources (Including training information currently available from the Bar Association and other sources).
6. Blank Forms to get You Started
7. Sample Forms Completed
8. Your Personal Section (This may be a great place for you to maintain financial documentation, receipts, etc.)

APPENDIX D

SUMMARY OF ISSUES REQUIRING FURTHER STUDY AND FUNDING

1. Whether to recommend establishing an Office of Probate Services within the Office of the State Court Administrator to provide local courts statewide with assistance on probate matters.
2. Whether to recommend creation of Protective Proceedings Facilitators in each Judicial District.
3. Whether to create the concept of Supervised Conservatorships/Guardianships and Unsupervised Conservatorships/Guardianships, similar to the same concept used in decedents' estates.
4. Whether to recommend licensing and training for professional guardians and conservators and whether to establish a pool of professional guardians and conservators. The Task Force will need community participation with this study.
5. Whether to create electronic forms (E-forms similar to what the Internal Revenue Service has for tax reporting) for electronic data input of guardian care plans, conservator financial plans, and annual reports.
6. Whether to recommend that guardian and conservator cases be "suppressed" due to the sensitivity of the information contained in each file, for example medical information, financial accounts, etc.
7. Evaluate applicable probate fees to help offset the costs of the user manual and/or Protective Proceedings Facilitator and/or Office of Probate Services.
8. Evaluate whether to charge a response/intervenor fee from party who did not initiate the case. This may result in a recommendation for a statutory change.
9. Evaluate what procedures should be in place when the fiduciary, the protected person, or the incapacitated person moves out-of-state.
10. Evaluate whether to develop training materials for guardians ad litem and court-appointed counsel for respondents.

APPENDIX E

SUMMARY OF ISSUES REQUIRING LEGISLATIVE ACTION, CHIEF JUSTICE DIRECTIVES, OR COURT RULES

1. Change requirements for filing initial guardian report, inventory, and financial plan so that that all fall due on the same date. The committee recommends 90 days.
2. Change statutory requirements §15-14-110(4)(f), C.R.S. to eliminate the exception for parents residing with their children to obtain name-based criminal history checks and credit reports.

APPENDIX F

SUMMARY OF ISSUES REQUIRING COMPUTER PROGRAMMING CHANGES

DRAFT

1. Establish a "Maintenance" or "Administration" category for all Conservatorship and Guardianship cases upon the issuances of letters. This category will identify cases that require court review of annual reports. Cases will only be in closed status when the Guardianship/Conservatorship is terminated.
2. Create field for Risk Factor Rating.
3. Automate the issuance of various notices and orders.
4. Addition to summary screen: Annual Report due: _____ date. This would require a new code and management reports could generate from this code whether reports are coming due or past due.