

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

SPR18-33

Title	Action Requested
Guardianship and Conservatorship: Court-Appointed Counsel	Review and submit comments by June 8, 2018
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rule 7.1101; revise forms GC-010 and GC-011	January 1, 2019
Proposed by	Contact
Probate and Mental Health Advisory Committee Hon. John H. Sugiyama, Chair	Corby Sturges, 415-865-4507, corby.sturges@jud.ca.gov

Executive Summary and Origin

The Probate and Mental Health Advisory Committee proposes amending one rule of court that establishes minimum qualifications for court-appointed counsel in guardianship and conservatorship proceedings under the Probate Code. The committee also proposes revising two mandatory forms used by attorneys to certify that they meet the requirements for appointment. The rule amendments, in response to apparent inconsistencies with statute that were pointed out by courts, stakeholders, and disability rights advocates, would resolve any inconsistencies with statute, protect the rights of wards and conservatees by promoting more effective advocacy, and simplify the process of complying with the requirements.

Background

Rule 7.1101 of the California Rules of Court was adopted, effective January 1, 2008, in response to the enactment of section 1456 of the Probate Code in the Omnibus Conservatorship and Guardianship Reform Act of 2006.¹ As required by section 1456, the rule established minimum qualifications, hours and content of required education, and compliance requirements for attorneys appointed by the court under sections 1470 and 1471 in guardianship and conservatorship proceedings. Judicial Council form GC-010 was adopted, effective March 1, 2008, to enable attorneys to certify their initial qualification for appointment, as required by rule

¹ The Omnibus Act was a package of four separate bills, enacted as Stats. 2006, chs. 490–493: [Assem. Bill 1363](#) (Stats. 2006, ch. 493); [Sen. Bill 1116](#) (Stats. 2006, ch. 490); [Sen. Bill 1550](#) (Stats. 2006, ch. 491); and [Sen. Bill 1716](#) (Stats. 2006, ch. 492). Section 1456 was added by AB 1363, § 3. Unless otherwise specified, all further statutory references are to the Probate Code.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

7.1101.² Form GC-011 was adopted, effective January 1, 2009, to enable attorneys to certify their ongoing compliance with the licensing, insurance, and annual continuing education requirements in rule 7.1101.³

The Proposal

The Probate and Mental Health Advisory Committee proposes amending rule 7.1101 of the California Rules of Court to simplify the basic licensing and insurance requirements for court-appointed attorneys in conservatorship and guardianship proceedings, to add initial attorney education requirements, to specify the required subject matter of both initial and continuing education of court-appointed attorneys, and to add an alternative way for attorneys to meet the experience requirements. In addition, the committee proposes updating and simplifying Judicial Council forms GC-010 and GC-011.

As required by section 1456(a), rule 7.1101 specifies minimum qualifications, both the amount and content of required professional education, and requirements for counsel appointed under sections 1470 and 1471 to certify their compliance with the qualifications and education requirements. The committee intends the proposed amendments to rule 7.1101 to clarify its terms and requirements, to ensure that appointed attorneys have sufficient professional education in subjects “related to conservatorships or guardianships” (Prob. Code, § 1456(a)(3)–(4)), to increase the flexibility of the experience requirements, and to simplify the process for certifying attorney qualification and annual compliance. Forms GC-010 and GC-011 would be revised to reflect the amendments to rule 7.1101 and to simplify them to facilitate accuracy and ease of certification. Specifically, the committee proposes, effective January 1, 2019:

1. Amending subdivision (a) to:
 - Define “counsel of record” to allow a uniform set of requirements for all attorneys, whether employed by a private firm, a legal services organization, or a public defender’s office;
 - Separate the definitions of “probate guardianship” and probate conservatorship”;
 - Define “limited conservatorship” to allow specific application of the rule’s requirements to limited conservatorship proceedings for a developmentally disabled adult;
 - Make other amendments to state legal requirements more clearly;
2. Adding subdivision (b) to state the rule’s purpose clearly and separately;
3. Adding subdivision (c) to specify simplified licensing and insurance requirements that mirror those required for attorneys appointed by the court under Family Code section 3150 to represent children in custody proceedings;

² Judicial Council of Cal., mins. (Feb. 22, 2008), pp. 13–14.

³ Judicial Council of Cal., mins. (Oct. 24, 2008), p. 31.

4. Relettering former subdivision (b) as (d) and amending it to:
 - Add a requirement that, effective January 1, 2020, an attorney must have completed eight hours of approved education in subjects related to conservatorships or guardianships, as specified in rule 7.1101(g)(1), before accepting appointment;
 - Reduce the experience requirements, but tailor them more specifically to conservatorship and guardianship proceedings and require that they be satisfied more recently before appointment;
 - Add a specific experience requirement for an attorney appointed in a limited conservatorship proceeding; and
 - Specify that a court may develop local rules that impose additional experience requirements;
5. Deleting former subdivision (c), which established special qualifications for public defenders, and former subdivision (d), which supplied transitional provisions;
6. Adding subdivision (e) to provide that an attorney who does not meet the experience requirements in (d) may nevertheless be appointed if the attorney works for a firm, organization, or public defender's office approved by the court to accept appointments and is directly supervised by an attorney in the same organization who does meet the experience requirements;
7. Amending subdivision (f) to increase the annual continuing education requirements from three hours to six hours and specify that qualifying education must cover one or more of the subjects specified in rule 7.1101(g)(1);
8. Adding subdivision (g) to:
 - Specify the subject matter to be included in the qualifying education as required by section 1456(a)(4);
 - Specify the methods that may be used to complete the required education; and
 - State expressly that a court may develop local rules that impose additional education requirements;
9. Relettering former subdivision (e) as (h) and amending it to retain the exception to the appointment requirements for small courts and to clarify that a small court may not waive the licensing or self-insurance requirements;
10. Deleting former subdivision (g) and relocating its authorization of additional local requirements in subdivisions (d) and (g);
11. Relettering former subdivision (h) as (i) and amending it to clarify the requirements for initial and annual certification of compliance with the rule's requirements, add a requirement to notify the court of any disciplinary action within five days, and expressly require the use of mandatory forms GC-010 and GC-011;

12. Relettering former subdivision (i) as (j) and amending it to expressly authorize a court to require an attorney to submit documentation in support of a certificate of compliance;
13. Adding subdivision (k) to permit an attorney who meets the requirements of current rule 7.1101 to accept appointment through December 31, 2019, and to authorize a court to permit an appointed attorney who meets those requirements to continue to represent clients through the conclusion of the proceedings;
14. Revising *Certification of Attorney Concerning Qualifications for Court Appointment in Conservatorships or Guardianships* (form GC-010) to conform to the amended certification requirements and to simplify the certification process; and
15. Revising *Annual Certification of Court-Appointed Attorney* (form GC-011) to conform to the amended certification requirements and to simplify the certification process.

Alternatives Considered

The committee considered not amending rule 7.1101. In particular, the committee considered leaving the rule's education requirements unmodified. However, committee members and stakeholders reported inconsistent and sometimes inadequate education of appointed counsel in conservatorship and guardianship proceedings across the state. In addition, a comparison of the existing rule to [section 1456](#) led the committee to conclude that the rule's authorization of education in general probate law and process was not fully consistent with the statute's specific focus on conservatorships and guardianships. The committee also considered not revising forms GC-010 and GC-011, but determined that the forms needed revision to reflect the amendments to rule 7.1101 and to simplify them.

The committee also considered proposing several additional rule amendments. First, the committee considered proposing a new, separate rule to apply only to representation in limited conservatorship proceedings, but decided to address limited conservatorships in the context of the existing rule. This approach is consistent with statute. The current statutory framework integrates limited conservatorship proceedings into the general conservatorship provisions of division 4 of the Probate Code. Unless otherwise specified, provisions addressing conservatorships are construed to apply to both general and limited conservatorships. When the Legislature has chosen to treat limited conservatorship proceedings differently, it has interpolated specific sections or subdivisions into the general statutory scheme. For example, [section 1801](#) of the Probate Code, which describes the persons for whom a court may appoint a conservator, addresses the appointment of a limited conservator for a developmentally disabled adult in subdivision (d). In the same way, [section 1471](#), which specifies the circumstances requiring appointment of counsel in a conservatorship proceeding, provides for mandatory appointment in a limited conservatorship proceeding in subdivision (c).

Second, the committee considered whether to directly specify the standards of professional conduct applicable to attorneys appointed by the court to represent (proposed) conservatees and wards. The committee determined, however, that standards of professional conduct fall in the first instance within the province of the Legislature and, to the extent that the Legislature has left gaps in the statutory scheme, of the State Bar. The State Bar Act (Bus. & Prof. Code, §§ 6000–6243) and the Rules of Professional Conduct govern the attorney-client relationship. The Judicial Council and the lower courts are not free to depart from this statutory and regulatory framework; any rule of court must be consistent with statute.⁴ To the extent that sections 1456, 1470, and 1471 do permit or require departure from the normal standards of professional conduct in conservatorship proceedings, it seems appropriate to construe the statutory language narrowly. (See Prob. Code, §§ 1470(a), 1471(b).)

When the California Rules of Court do prescribe atypical ethical duties or standards of representation for appointed counsel, it is because the authorizing statutes expressly establish those standards and require rule-based direction. For example, Family Code sections 3150–3153 charge an attorney appointed for a child in a custody proceeding to represent the child’s best interests and requires both the court and appointed counsel to comply with rules 5.240, 5.241, and 5.242 of the California Rules of Court. (Fam. Code, §§ 3150, 3151(a).)

In addition, the court’s authority to impose special standards of attorney conduct seems tied to the existence of a statutory financial relationship. The cost of appointed children’s counsel in family law proceedings is an element of court operations. (Gov. Code, § 77003(a)(4).) Courts frequently contract with counsel to represent children. By contrast, no financial relationship exists between the court and appointed counsel in conservatorship or guardianship proceedings. Sections 1470(a) and 1472 impose liability for the cost of appointed counsel in guardianships and conservatorships on the person represented, the person’s estate, or the county. Given these circumstances, the committee decided not to propose special standards of representation for court-appointed counsel in probate proceedings.

Implementation Requirements, Costs, and Operational Impacts

The proposed amendments to the education requirements may lead to a short-term reduction in the number of qualified attorneys available for appointment. Any reduction is unlikely to last very long, however, because the hours required still fall below the 25 hours required of each California attorney every three years. To the extent that the new education requirements have this effect, the committee intends the alternative experience requirements in rule 7.1101(e) and the transitional provisions in rule 7.1101(k) to counteract it. With these provisions, the committee has tried to balance the need for attorneys to have specific knowledge and experience to provide adequate representation against the need to encourage new, less-experienced attorneys to enter the field. On the other hand, attorneys and courts would need to spend less time completing and processing the streamlined certificates of compliance. The committee believes that the proposed amendments, taken together, will lead to more effective representation of

⁴ See Cal. Const., art VI, § 6(d).

wards and conservatees, more efficient proceedings and better-informed judicial determinations, and fewer continued hearings. These benefits should offset any costs to courts or attorneys.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would three months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Rule 7.1101, at pages 7–16
2. Forms GC-010 and GC-011, at pages 17–18
3. Probate Code, §§ [1456](#), [1470–1474](#)

Rule 7.1101 of the California Rules of Court would be amended, effective January 1, 2019, to read:

1 **Rule 7.1101. Minimum qualifications and continuing education required of counsel**
2 **appointed by the court of court-appointed counsel in guardianships and**
3 **conservatorships proceedings (§ 1456)**
4

5 (a) **Definitions**
6

7 As used in this rule, the following terms ~~have the meanings stated~~ are used as
8 defined below:
9

10 (1) “Appointed counsel,” or “counsel appointed by the court,” or “attorney
11 appointed by the court” are legal counsel mean an attorney appointed by the
12 court under Probate Code sections 1470 or 1471, including counsel in private
13 practice and deputy public defenders directly responsible for the performance
14 of legal services under the court’s appointment of a county’s public defender,
15 to represent a ward, proposed ward, conservatee, or proposed conservatee as
16 counsel of record in a proceeding under division 4 of the Probate Code.
17

18 (2) “Counsel of record” means an attorney who assumes direct responsibility for
19 the performance of legal services in proceedings under division 4 of the
20 Probate Code, regardless of whether the attorney is a sole practitioner,
21 employed or contracted by a private firm or nonprofit organization, or
22 employed by a public agency.
23

24 ~~(2)~~(3) “Probate guardianship” means any proceeding related to the establishment,
25 supervision, modification, or termination of a general or temporary
26 guardianship under division 4 of the Probate Code.
27

28 (4) ~~A “Probate guardianship” or “probate conservatorship” is a guardianship or~~
29 ~~conservatorship~~ means any proceeding related to the establishment,
30 supervision, modification, or termination of a general or temporary
31 conservatorship under division 4 of the Probate Code.
32

33 (5) “Limited conservatorship” means any proceeding related to the
34 establishment, supervision, modification, or termination of a limited
35 conservatorship for a developmentally disabled adult under division 4 of the
36 Probate Code.
37

38 ~~(3)~~(6) “LPS” and “LPS Act” refer to the Lanterman-Petris-Short Act, Welfare and
39 Institutions Code section (Welf. & Inst. Code, § 5000 et seq.), which provides
40 for involuntary mental health treatment and conservatorship for gravely
41 disabled persons.
42

1 ~~(4)(7)~~ An “LPS conservatorship” is means a conservatorship proceeding for a
2 gravely disabled person under chapter 3 of the LPS Act, ~~Welfare and~~
3 ~~Institutions Code sections 5350–5371~~ (Welf. & Inst. Code, §§ 5350–5371.)
4

5 ~~(5)(8)~~ A “contested matter” ~~in a probate or LPS conservatorship proceeding~~ is a
6 matter that requires a noticed hearing and in which ~~written~~ an objections ~~are~~
7 is filed in writing before or at the hearing by any party or made orally at the
8 hearing by the conservatee or proposed conservatee orally in open court any
9 person entitled to appear at the hearing and support or oppose the petition.
10

11 ~~(6)~~ “Counsel in private practice” ~~includes attorneys employed by or performing~~
12 ~~services under contracts with nonprofit organizations.~~

13
14 **(b) Purpose**

15
16 This rule establishes minimum qualifications, education, and certification
17 requirements for an attorney to qualify for appointment under section 1470 or 1471
18 of the Probate Code to represent a ward, a proposed ward, a conservatee, or a
19 proposed conservatee as counsel of record in a proceeding under division 4 of that
20 code.
21

22 **(c) General**

23
24 To be qualified for appointment as counsel of record under section 1470 or 1471,
25 an attorney must:
26

- 27 (1) Be an active member in good standing of the State Bar of California;
28
29 (2) Have professional liability insurance or demonstrate to the court that the
30 attorney or the attorney’s firm or employer is adequately self-insured; and
31
32 (3) Satisfy the other requirements of this rule and any applicable local rules.
33

34 **(b)(d) Qualifications of appointed counsel in private practice Minimum initial**
35 **education and experience requirements**
36

37 Except as otherwise provided in this rule, ~~each counsel in private practice an~~
38 attorney appointed by the court on or after January 1, ~~2008~~2020, must have
39 completed at least eight hours of education approved by the State Bar for
40 Mandatory Continuing Legal Education (MCLE) credit covering each of the
41 subjects listed in (g)(1) ~~be an active member of the State Bar of California for at~~
42 ~~least three years immediately before the date of appointment, with no discipline~~
43 ~~imposed within the 12 months immediately preceding any date of availability for~~

1 appointment after January 1, 2008; and satisfied the following experience
2 requirements.

3
4 (1) *Appointments to represent minors in guardianships*

5
6 To be qualified for an appointment to represent a minor ward or proposed
7 ward in a guardianship proceeding, an attorney:

8
9 (A) Within the ~~five~~ three years immediately before the date of first
10 availability for appointment after January 1, ~~2008~~2020, must have
11 served as counsel of record for a minor child in at least three
12 proceedings of the following types:

- 13
14 (i) a probate guardianship in which the child was the ward or
15 proposed ward;
16
17 (ii) a juvenile court proceeding in which the child was the subject of
18 a petition for dependency; or
19
20 (iii) a family law proceeding in which the child was the subject of a
21 custody determination; represented at least three wards or
22 proposed wards in probate guardianships, three children in
23 juvenile court dependency or delinquency proceedings, or three
24 children in proceedings under the Family Code; or

25
26 (B) At the time of appointment, must be qualified:

- 27
28 (i) Under rule 5.660 and local court rules for ~~For~~ appointments to
29 represent children in juvenile dependency proceedings ~~under rule~~
30 ~~5.660 and the court's local rules governing court-appointed~~
31 ~~juvenile court dependency counsel; or~~
32
33 (ii) Under rule 5.242 for ~~For~~ appointments to represent children in
34 custody proceedings under the Family Code ~~under rule 5.242,~~
35 ~~including the alternative experience requirements of rule~~
36 ~~5.242(g).~~

37
38 (C) Except as provided in (f)(2), counsel qualified for appointments in
39 guardianships under (B) must satisfy the continuing education
40 requirements of this rule in addition to the education or training
41 requirements of the rules mentioned in (B).
42

1 (2) *Appointments to represent conservatees or proposed conservatees*

2
3 To be qualified for an appointment to represent a conservatee or a proposed
4 conservatee, within the five years immediately before the date of first
5 availability for appointment after January 1, 2008, counsel in private practice
6 an attorney must have, within the three years immediately before the date of
7 first availability for appointment after January 1, 2020, satisfied (A) or both
8 (B) and (C):

9
10 (A) Represented at least three conservatees or proposed conservatees in
11 either probate or LPS conservatorships; or

12
13 (B) Completed ~~any three~~ at least two of the following ~~five~~ tasks:

14
15 (i) Represented the petitioners for the appointment of a conservator
16 at commencement of at least three probate conservatorship
17 proceedings, from initial contact with the petitioner through the
18 hearing and issuance of Letters of Conservatorship;

19
20 (ii) Represented a petitioner, a conservatee or ~~a~~ proposed
21 conservatee, or an interested third party in ~~two~~ at least three
22 contested probate or LPS conservatorship matters. A contested
23 matter that qualifies under this item and also qualifies under (i)
24 may be applied toward satisfaction of both ~~items~~ tasks; or

25
26 (iii) Represented a ~~party~~ person for whom the court could appoint
27 legal counsel in ~~a total of~~ at least three matters described in
28 Probate Code sections 1470, 1471, 1852, 1954, 2356.5, 2357,
29 2620.2, 3140, or 3205; and

30
31 (C) Completed at least one of the following:

32
33 (i) Represented fiduciaries in at least three separate ~~eases~~
34 proceedings for settlement of a court-filed account and report,
35 through filing, hearing, and settlement, in any combination of
36 probate conservatorships or guardianships, decedent's estates, or
37 trust proceedings under ~~division 9~~ of the Probate Code; or

38
39 (ii) Prepared at least ~~five~~ three wills or trusts, ~~five~~ three durable
40 powers of attorney for health care, and ~~five~~ three durable powers
41 of attorney for asset management.
42

- 1 (3) To be qualified for appointment to represent a limited conservatee or a
2 proposed limited conservatee, an attorney must have satisfied the
3 requirements in (2) partly by representing at least one developmentally
4 disabled adult in a proceeding to establish a general or limited
5 conservatorship for that person.
6
7 (3) ~~Except as provided in (e)(2), private counsel qualified under (1) or (2) must~~
8 ~~also be covered by professional liability insurance satisfactory to the court in~~
9 ~~the amount of at least \$100,000 per claim and \$300,000 per year.~~
10
11 (4) A court may develop local rules that impose additional experience
12 requirements for counsel appointed under section 1470 or 1471.
13

14 **~~(e) Qualifications of deputy public defenders performing legal services on court~~**
15 **~~appointments of the public defender~~**
16

- 17 (1) ~~Except as provided in this rule, beginning on January 1, 2008, each county~~
18 ~~deputy public defender with direct responsibility for the performance of legal~~
19 ~~services in a particular case on the appointment of the county public defender~~
20 ~~under Probate Code sections 1470 or 1471 must be an active member of the~~
21 ~~State Bar of California for at least three years immediately before the date of~~
22 ~~appointment; and either~~
23
24 (A) ~~Satisfy the experience requirements for private counsel in (b)(1) for~~
25 ~~appointments in guardianships or (b)(2) for appointments in~~
26 ~~conservatorships; or~~
27
28 (B) ~~Have a minimum of three years' experience representing minors in~~
29 ~~juvenile dependency or delinquency proceedings or patients in post~~
30 ~~certification judicial proceedings or conservatorships under the LPS~~
31 ~~Act.~~
32
33 (2) ~~A deputy public defender qualified under (1) must also be covered by~~
34 ~~professional liability insurance satisfactory to the court in the amount of at~~
35 ~~least \$100,000 per claim and \$300,000 per year, or be covered for~~
36 ~~professional liability at an equivalent level by a self-insurance program for~~
37 ~~the professional employees of his or her county.~~
38
39 (3) ~~A deputy public defender who is not qualified under this rule may~~
40 ~~periodically substitute for a qualified deputy public defender with direct~~
41 ~~responsibility for the performance of legal services in a particular case. In~~
42 ~~that event, the county public defender or his or her designee, who may be the~~
43 ~~qualified supervisor, must certify to the court that the substitute deputy is~~

1 working under the direct supervision of a deputy public defender who is
2 qualified under this rule.

3
4 **(d) Transitional provisions on qualifications**

5
6 (1) ~~Counsel appointed before January 1, 2008, may continue to represent their~~
7 ~~clients through March 2008, whether or not they are qualified under (b) or~~
8 ~~(c). After March 2008, through conclusion of these matters, the court may~~
9 ~~retain or replace appointed counsel who are not qualified under (b) or (c) or~~
10 ~~may appoint qualified co-counsel to assist them.~~

11
12 (2) ~~In January, February, and March 2008, the court may appoint counsel in new~~
13 ~~matters who have not filed the certification of qualifications required under~~
14 ~~(h) at the time of appointment but must replace counsel appointed under this~~
15 ~~paragraph who have not filed the certificate before April 1, 2008.~~

16
17 **(e) Alternative experience requirements**

18
19 An attorney who does not meet the experience requirements in (d) may be
20 appointed under Probate Code section 1470 or 1471 if the attorney has completed
21 the education required in (d) and:

22
23 (1) Works for a private law firm, a legal services organization, or a public
24 defender's office that has been approved by the presiding judge of the local
25 superior court or the supervising judge of the local probate court to accept
26 appointments under Probate code section 1470 or 1471; and

27
28 (2) Is directly supervised by an attorney working in the same firm, organization,
29 or office who satisfies the applicable experience requirements in (d).

30
31 **(f) Continuing education of appointed counsel**

32
33 (1) ~~Except as provided in (2), beginning on January 1, 2008, counsel appointed~~
34 ~~by the court must each calendar year an attorney must, as a condition of~~
35 ~~ongoing or further appointment, complete three six hours of education~~
36 ~~approved for MCLE credit by the State Bar that includes instruction each~~
37 ~~calendar year that qualifies for Minimum Continuing Legal Education credit~~
38 ~~for State Bar-certified specialists in estate planning, trust, and probate law. in~~
39 ~~one or more of the subjects specified in (g)(1).~~

40
41 (2) ~~Counsel qualified to represent minors in guardianships under (b)(1)(B) and~~
42 ~~who are appointed to represent minors in guardianships of the person only~~
43 ~~may satisfy the continuing education requirements of this rule by satisfying~~

1 ~~the annual education and training required under rule 5.242(d) or the~~
2 ~~continuing education required under rule 5.660(d)(3). An attorney qualified~~
3 ~~under (d)(1)(B) to represent wards or proposed wards in guardianship~~
4 ~~proceedings who satisfies the annual education requirements of rule 5.242(d)~~
5 ~~or the continuing education requirements of rule 5.660(d)(3) but does not~~
6 ~~satisfy the requirements in (1) may be appointed in guardianships of the~~
7 ~~person, but not in guardianships of the estate.~~

8
9 **(g) Subject matter and methods of required education**

10
11 (1) Education approved for MCLE credit by the State Bar in the following
12 subjects may be used to satisfy this rule’s initial and continuing education
13 requirements.

14
15 (A) Statutes, rules of court, and case law applying to guardianship and
16 conservatorship proceedings;

17
18 (B) The rights of wards, conservatees, and persons with disabilities under
19 state and federal law, including the Indian Child Welfare Act (25
20 U.S.C. §§ 1901–1963) and the Americans with Disabilities Act (42
21 U.S.C. §§ 12101–12213);

22
23 (C) Strategies for communicating with a client who is a minor child, an
24 older adult, or a developmentally disabled person, ascertaining the
25 client’s wishes, and presenting those wishes to the court;

26
27 (D) Estate management requirements, including proper recordkeeping and
28 accounting practices; and

29
30 (E) Special considerations for representing a child, an older adult, or a
31 person with a disability, including the following:

32
33 (i) The recognition, evaluation, and understanding of abuse,
34 disability, mental health disorders—including major
35 neurocognitive disorder (a.k.a. dementia)—and substance use
36 disorders, especially in minor children and older adults;

37
38 (ii) The effects of physical, intellectual, and developmental
39 disabilities on a person’s capacity to function and make
40 decisions; and

1 (iii) The effective identification of and collaboration with experts
2 from other disciplines, including staff of the appropriate regional
3 center for the developmentally disabled, if applicable.
4

5 (2) No more than two hours of required education may be completed by self-
6 study, which must be under the supervision of an education provider that
7 provides evidence of completion.
8

9 (3) An attorney may complete education that satisfies the requirements of this
10 rule by means of video presentations or other methods of distance learning.
11 Education completed in this manner is not self-study within the meaning of
12 this rule.
13

14 (4) A court may adopt local rules imposing additional education requirements for
15 attorneys to qualify for appointment under Probate Code section 1470 or
16 1471.
17

18 **(e)(h) Exemption for small courts**
19

20 (1) ~~Except as provided in (2) and (3), the qualifications required under (b) or (c)~~
21 ~~may be waived by~~ A court with four or fewer authorized judges may waive
22 the requirements in (d) or (e) if it cannot find qualified counsel or for other
23 grounds of because of other hardship.
24

25 (2) ~~A court described in (1) may, without a waiver, appoint counsel in private~~
26 ~~practice who do not satisfy the insurance requirements of (b)(3) if counsel~~
27 ~~demonstrate to the court that they are adequately self insured.~~
28

29 (3) ~~A court may not waive or disregard the self insurance requirements of (c)(2)~~
30 ~~applicable to deputy public defenders.~~
31

32 (4)(2) ~~A court waiving that waives the qualifications required under (b) or (c)~~
33 requirements in (d) or (e) must make express written findings showing
34 describing the circumstances supporting the waiver and disclosing all
35 alternatives considered, including appointment of qualified counsel from an
36 adjacent counties county—that were considered and other alternatives not
37 selected.
38

39 **(g) Additional court-imposed qualifications, education, and other requirements**
40

41 ~~The qualifications in (b) and (c) and the continuing education requirement in (f) are~~
42 ~~minimums. A court may establish higher qualification or continuing education~~
43 ~~requirements, including insurance requirements; require initial education or~~

1 training; and impose other requirements, including an application by private
2 counsel.

3
4 **(h)(i) Initial and annual attorney certification of qualifications; annual post-**
5 **qualification reports and certifications**
6

7 (1) ~~Each counsel appointed or eligible for appointment by the court before~~
8 ~~January 1, 2008, including deputy public defenders, must certify to the court~~
9 ~~in writing before April 1, 2008, that he or she satisfies the qualifications~~
10 ~~under (b) or (c) to be eligible for a new appointment on or after that date.~~

11
12 ~~(2)(1)After March 2008, Before accepting appointment under Probate Code section~~
13 ~~1470 or 1471, each counsel an attorney must certify to the court on form GC-~~
14 ~~010 that he or she is qualified meets the requirements under (b) or (c) before~~
15 ~~becoming eligible for an appointment under this rule. and, unless appointed~~
16 ~~by a court subject to (h), all applicable requirements under (d) or (e).~~

17
18 ~~(3) Each counsel attorney appointed or eligible qualified for appointment by the~~
19 ~~court under this rule must immediately advise the court of the imposition of~~
20 ~~any State Bar discipline.~~

21 ~~(4)(2)Beginning in 2009, each appointed counsel An attorney who has submitted a~~
22 ~~certificate under (1) must certify to the court on form GC-011 before the end~~
23 ~~of no later than March 31 of each year that, in the period since the attorney's~~
24 ~~most recent previous certification:~~

25
26 (A) ~~His or her history of State Bar discipline and professional liability~~
27 ~~insurance coverage or, if appointed by a court with four or fewer~~
28 ~~authorized judges under (e)(2), the adequacy of his or her self-~~
29 ~~insurance, either has or has not changed since the date of his or her~~
30 ~~qualification certification or last annual certification; and The State Bar~~
31 ~~has not taken any disciplinary action against the attorney;~~

32
33 (B) ~~The attorney's level of professional liability insurance coverage or self-~~
34 ~~insurance has not changed; and~~

35
36 (C) ~~He or she The attorney has completed the continuing education~~
37 ~~required for the preceding calendar year.~~

38
39 ~~(5)(3)Annual certifications required under this subdivision showing changes in If~~
40 ~~the attorney has been subject to State Bar disciplinary history, action or the~~
41 ~~attorney's level of professional liability insurance coverage, or adequacy of~~
42 ~~or self-insurance has changed, the annual certificate required by (2) must~~
43 ~~include descriptions of the action or changes.~~

1
2 ~~(6)~~(4) Certifications required under this subdivision must be submitted to and
3 recorded by the court but ~~are not to~~ must not be filed or lodged in a case file.

4
5 (5) An attorney who has submitted a certificate under (1) or (2) must notify the
6 court within five days of any disciplinary action taken against the attorney by
7 the State Bar of California. The notification must describe the charges, the
8 disposition, and the terms of any reproof, probation, or suspension.

9
10 ~~(i)~~(j) **Reporting Verification of Qualifications and Compliance**

11
12 ~~The Judicial Council may require courts to report appointed counsel's~~
13 ~~qualifications and completion of continuing education required by this rule to~~
14 ~~ensure compliance with Probate Code section 1456.~~

15
16 A court to which an attorney has submitted a certificate under (i) may require the
17 attorney to submit documentation to support any of the statements made in the
18 certificate.

19
20 **(k) Transitional provisions**

21
22 (1) Until December 31, 2019, an attorney who meets the requirements in this rule
23 as it read on December 31, 2018, may accept court appointment under
24 Probate Code section 1470 or 1471. An initial certificate of qualification
25 based on those requirements remains valid until December 31, 2019.

26
27 (2) On or after January 1, 2020, and subject to (h), an attorney must file a new
28 initial certificate of qualification certifying that the attorney meets the
29 requirements in (c) and, as applicable, (d) or (e) before the attorney may
30 accept appointment under section 1470 or 1471.

31
32 (3) The court may permit an attorney appointed before January 1, 2020, who had
33 a valid certificate on file when appointed, to continue to represent clients
34 through the conclusion of the proceedings for which the attorney was
35 appointed.

ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	DO NOT FILE OR LODGE IN CASE FILE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
INITIAL CERTIFICATE OF QUALIFICATION FOR APPOINTMENT AS COUNSEL OF RECORD IN <input type="checkbox"/> CONSERVATORSHIP <input type="checkbox"/> GUARDIANSHIP	
NOTICE TO ATTORNEY	
1. Before you may accept court appointment as counsel of record in a guardianship or conservatorship proceeding, you must certify to the court that you meet the applicable requirements in rule 7.1101 of the California Rules of Court. 2. Under the circumstances specified in rule 7.1101(h), a court with four or fewer authorized judges may waive the education and experience requirements in rule 7.1101(d) & (e).	

I certify that (check all boxes that apply):

1. I am a member in good standing of the State Bar of California. (Date of admission):
2. a. I am covered by professional liability insurance. My insurer is:
 or
 b. I am self-insured or covered by a self-insurance program through my firm, employer, or government agency.
3. I am qualified under rule 7.1101 of the California Rules of Court to accept court appointment under Probate Code section 1470 to represent wards or proposed wards in guardianship proceedings, in that:
 - a. I have satisfied the initial education and experience requirements in rule 7.1101(d)(1).
 or
 I have satisfied the alternative education and experience requirements in rule 7.1101(e).
 - b. I have satisfied any additional requirements imposed by local rule of the superior court named above.
4. I am qualified under rule 7.1101 to accept court appointment under Probate Code section 1470 or 1471 to represent conservatees or proposed conservatees in conservatorship proceedings, in that:
 - a. I have satisfied the initial education and experience requirements in rule 7.1101(d)(2).
 or
 I have satisfied the alternative education and experience requirements in rule 7.1101(e).
 - b. I have satisfied any additional requirements imposed by local rule of the superior court named above.
5. I am qualified under rule 7.1101 to accept court appointment under Probate Code section 1471 to represent limited conservatees or proposed limited conservatees in limited conservatorship proceedings, in that:
 - a. I have satisfied the initial education and experience requirements in rule 7.1101(d)(2) & (3).
 or
 I have satisfied the alternative education and experience requirements in rule 7.1101(e).
 - b. I have satisfied any additional requirements imposed by local rule of the superior court named above.
6. I meet the requirements of rule 7.1101(c)(1) & (2), but I do not meet the initial education and experience requirements in rule 7.1101(d) or (e). I ask the court named above, which has four (4) or fewer authorized judges, to waive those requirements under rule 7.1101(h) to allow me to accept appointment under Probate Code section 1470 or 1471.

I certify under penalty of perjury under the laws of the State of California that the foregoing statements, including statements in any attachment, are true and correct.

Date:

(TYPE OR PRINT NAME OF CERTIFYING ATTORNEY)

▶ _____
(SIGNATURE)

ATTORNEY STATE BAR NUMBER: NAME: FIRM NAME: STREET ADDRESS: CITY: STATE: ZIP CODE: TELEPHONE NO.: FAX NO.: E-MAIL ADDRESS: ATTORNEY FOR (name):	DO NOT FILE OR LODGE IN CASE FILE
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
ANNUAL CERTIFICATE OF COURT-APPOINTED ATTORNEY COMPLIANCE	
NOTICE TO COURT-APPOINTED ATTORNEYS IN CONSERVATORSHIPS OR GUARDIANSHIPS	
1. Each calendar year, beginning in 2019, you must complete six (6) hours of continuing education approved by the State Bar for Minimum Continuing Legal Education (MCLE) credit in one or more of the subjects listed in rule 7.1101(g) of the California Rules of Court. 2. No later than March 31 of each calendar year, beginning in 2020, you must certify to the court on this form (1) that the State Bar has not taken disciplinary action against you and (2) that your professional liability insurance coverage or level of self-insurance has not changed since you filed your most recent initial or annual certification, and (3) that you completed the required continuing education during the previous calendar year. If you cannot certify (1) or (2), you must describe any disciplinary action or changes to your insurance coverage or self-insurance in attachments to this form. (See rule 7.1101(i)(3) & (4).)	

I certify that (check all boxes that apply):

- The State Bar has not taken any disciplinary action against me since I filed my most recent certificate of qualification or compliance.
 The State Bar has taken disciplinary action against me since I filed my most recent certificate of qualification or compliance. The charges, disposition, and terms of discipline are described in Attachment 1.
- My professional liability insurance coverage or level of self-insurance (rule 7.1101(c)(2)) has not changed since I filed my most recent certificate of qualification or compliance.
 My professional liability insurance coverage or level of self-insurance has changed since I filed my most recent certificate of qualification or compliance. My current level of insurance is described in Attachment 2.
- During calendar year _____, I completed a total of (specify): _____ hours of continuing education approved for MCLE credit by the State Bar in subjects listed in rule 7.1101(g).

I certify under penalty of perjury under the laws of the State of California that the foregoing statements, including statements in any attachment, are true and correct.

Date:

(TYPE OR PRINT NAME OF CERTIFYING ATTORNEY)

(SIGNATURE)