

VAN BUREN COUNTY - ALL COURT POLICY

SUBJECT: PROFESSIONAL GUARDIAN / CONSERVATOR APPLICATION AND REVIEW PROCESS	SECTION: PROBATE	UPDATED: 8/16/19
PREPARED BY: Frank Hardester	NUMBER: VBC 1500	SUPERCEDES: 8/10/16

Renumbered to "Policy 10.003" on 9/16/20

REFERENCES:

- Estates and Protected Individuals Code: Act 386 of 1998
- MCL 700.5106, MCL 700.5306a, MCL 700.5414, MCL 700.1106
- MCR 5.404, MCR 5.405, & MCR 5.408
- State Court Administrative Office - Court Administration Reference Guide
<http://courts.mi.gov/Administration/SCAO/Resources/Documents/Publications/Manuals/carg/carg.pdf>
- National Guardianship Association - Ethical Principals
<https://www.guardianship.org/wp-content/uploads/2017/07/Ethical-Principles-2017.pdf>

DEFINITIONS AND ABBREVIATIONS:

- **Conservator:** A person, institution, or agency appointed by a court to handle an individual's financial matters and make decisions about property and assets.
- **Guardian:** A person, institution, or agency appointed by a court to manage the affairs of another, called a ward. A Guardian is responsible for making decisions regarding a person's personal affairs and living situation.
- **Professional Conservator:** An individual, agency, or organization that provides conservatorship services for a fee.
- **Professional Guardian:** An individual, agency, or organization that provides guardianship services to individuals for a fee.
- **Public Guardian / Conservator:** A person appointed by the court as guardian/conservator for a ward and/or a ward's estate if the appointment is in the ward's and/or estate's best interest and if there is no other competent, suitable, and willing person to act. The position of public guardian/conservator has been created by courts in response to the need to have a person available to make personal or financial decisions for someone unable to handle their own affairs.
- **Ward:** An individual for whom a guardian is appointed.
- **Protected Individual:** An individual for whom a conservator has been appointed.

BACKGROUND:

- A. A uniform policy is needed to provide consistency with the application and review process for professional guardians and conservators used by the court.
- B. The court is devoted to ensure procedural and ethical protections are in place for those that have been determined in need of a guardian/conservator.
- C. If complaints or concerns are raised with guardians/conservators, a procedure to review the issue is needed to determine if individuals or agencies will remain on the professional guardian / conservator list maintained by the court.

POLICY STATEMENT:

- A. An application process will be used by the court for individuals / agencies requesting to be listed as a professional guardian / conservator used by the court.
- B. The applications will be reviewed by the Probate Register or designee and those approved will be

placed on an alphabetical list maintained by the court.

- C. The court may remove individuals and agencies as necessary from the professional guardian / conservator list.
- D. On an annual basis, the court will conduct background and credit checks for all individuals and agencies that continue to be on the approved list of professional guardians / conservators.

PROCEDURES:

A. Applications

- 1. Individuals or Agencies requesting to be added to the court's list of professional / public guardian / conservator list must complete an application form (VBC-4007)
- 2. The Probate Register or designee will review each application to determine if the requirements have been met and that the application is in proper form. The review will include the following:
 - Verification of liability insurance
 - IChat and Judicial Data Warehouse background check
 - Credit check review
 - Reference contact and review
- 3. Applicants will be informed if they have been approved or rejected in writing using form VBC-4008.

B. Requirements

- 1. Individuals or Agencies interested in being placed on the courts professional guardian / conservator list must provide the following:
 - a. A completed application form.
 - b. A credit report from TransUnion, Equifax or Experian dated no later than 1 month prior to the application date.
 - c. Proof of professional liability insurance coverage for a minimum of \$500,000 (aggregate).
 - d. Three letters of reference from individuals familiar with their work in the guardianship area.
- 2. Applicants must also agree to:
 - a. Civil & Criminal Background Check
 - b. Credit History Review
 - c. Compliance with the Model Code of Conduct for Guardians by the National Guardianship Association.
- 3. Caseload.

Michigan does not have limits in caseload size. The National Association standards recommend 25 per person. That is not the norm in Michigan due to limitations in the numbers of available guardians in most counties.

For illustration purposes, a random sample of caseload sizes included the following:

- Payee Only: 200 / person
- Guardian: 70-75 / person
- Conservator: 40-50 / person

D. Petitioner Selection & Court Appointments

- 1. When a guardian or a conservator petition is presented to the court and the petitioner does

not have the name of a person or agency to serve as guardian or conservator, the Court will provide the petitioner with an alphabetical list of persons/agencies to select from and contact.

2. In the event the court must select a guardian / conservator, the court shall appoint a guardian / conservator from the alphabetical rotation list unless an exception is noted on the record.

E. Complaints / Modifications / Removal

1. Any individual may request the court to modify / terminate a guardianship / conservatorship using SCAO form *PC 675 Petition to Terminate / Modify Guardianship* or *PC 676 Petition to Terminate / Modify Conservatorship*.
2. The court shall conduct a periodic review of a guardianship of a legally incapacitated individual not later than 1 year after the appointment of the guardian and not later than every 3 years thereafter.
3. The court, on its own initiative, may schedule proceedings to review Guardianship / Conservatorship matters as needed.
4. The court may remove individuals or agencies from the list if circumstances warrant such removal.

F. Biennial Review of Professional Guardian / Conservator List

1. By January 31 every two years, the court will conduct a review for all guardians and conservators on the alphabetical list. The review will include the following:
 - Civil & Criminal Background Check
 - Credit History Review
 - Verification of Liability Insurance
 - Compliance with the Model Code of Conduct for Guardians by the National Guardianship Association.
2. The court will contact guardians / conservators as needed to conduct further investigation.
3. Once the review has been completed, the court may remove agencies and individuals from the list as needed.

FORMS USED:

VBC-4005: Guardian / Conservator Agency List

VBC-4007: Professional Guardian / Conservator Application Form

VBC-4008: Notice Regarding Guardian / Conservator Application Status

PC 675: Petition to Terminate / Modify Guardianship

PC 676: Petition to Terminate / Modify Conservatorship

APPROVAL:

Date: 11/18/2019


Kathleen M. Brickley, Chief Judge