

CONSERVATORSHIP DUTIES

This document summarizes your duties as a conservator for a minor or a financially incapable person.

You must exercise scrupulous good faith in managing the protected person's affairs. Everything you do must be for the benefit of that protected person and to protect his or her economic interests.

Oregon law imposes significant financial penalties for financial or physical abuse of a protected person and on the failure to report such abuses. If you have any questions about specific rights or duties involved in the conservatorship, please ask an attorney. The following list describes some of your important duties as conservator:

(1) You must take possession of all the property of substantial value of the protected person, although you may permit the protected person to retain possession and control of property and funds for living requirements, depending on the needs and capacities of the protected person.

(2) You must take possession of any rents, income, or profits that accrue from the property of the protected person, whether they accrue before or after your appointment as conservator. You cannot sell a protected person's home without obtaining prior Court approval.

(3) You also must take possession of the proceeds of any sale, mortgage, lease, or other disposition of the protected person's property.

(4) If real property of the protected person is located in a county other than the county of appointment, you must file a certified copy of the inventory or a real property abstract in the county or counties where that real property is located.

(5) Within 90 days of your appointment as conservator, you must file with the court an inventory of all property of the protected person that has come into your possession or knowledge. If you subsequently acquire possession or knowledge of any additional property that is not included in that inventory, you must file a supplemental inventory within 30 days after receiving possession or knowledge of the property.

(6) You must pay the valid debts of the protected person that are chargeable against the conservatorship estate. Debts which you believe are suspect or fraudulent can be denied. You should consult an attorney to assist with the denial process.

(7) You must make prudent investments with the conservatorship assets. In most cases, this will require the advice of a professional.

(8) When managing the conservatorship assets, you must take into consideration any known estate plan of the protected person, including any will of the

CONSERVATORSHIP DUTIES

protected person, trusts, or joint-ownership or payable on death arrangements. Obtain prior Court approval before making any changes which would impact the protected person's estate plan, including changing beneficiaries on insurance or annuities or surrendering policies for cash.

(9) You must evaluate the need to obtain insurance on conservatorship assets and obtain such insurance if advisable.

(10) You must pay, contest, or settle claims submitted against the conservatorship estate. (You are also authorized to prosecute valid claims of the protected person and deny payment of invalid claims.)

(11) You must prepare and submit necessary state and federal income tax returns on behalf of the protected person, using an individual tax return as opposed to a fiduciary tax return.

(12) You must set up a separate conservatorship checking, savings and investment ~~bank~~ account to hold unrestricted assets. Set up restricted accounts to hold assets restricted by Order of the Court. Depending on the county in which the conservatorship is filed, you may be required to have the checks returned to you by the bank and to submit those canceled checks or electronic vouchers to the court with your periodic accountings.

(13) You must carefully account for all money or property received and all expenditures and disbursements made in regard to the conservatorship estate. You may not withdraw any money from restricted accounts without prior Court approval

(14) You must prepare and file with the court written accountings as required by law, including an annual accounting (which must be filed within 60 days after each anniversary of your appointment). In addition, you must file an accounting within 60 days after (a) the protected person dies, (b) a minor protected person reaches age 18, or (c) an adult protected person becomes able to manage his or her financial resources. You must also file a final accounting within 30 days after your removal, your resignation, or the termination of your authority.

(15) With each accounting filed with the court, you must submit a list of disbursements, including check numbers, in chronological order, as well as statements from depositories showing current balances. Some counties may require you to file the original canceled checks or electronic vouchers.

(16) You must serve copies of the accountings with notice of time to file objections on certain persons, including the protected person (if he or she is 14 years of

CONSERVATORSHIP DUTIES

age or older), the protected person's spouse, the parents of a protected person under age 14, any guardian appointed for the protected person or personal representative of the estate, and other persons either requesting notice through the court or directed to be notified by the court. See ORS 125.060(3).

(17) You must obtain court approval before payment can be made to you as conservator for services rendered to the protected person, or to a lawyer who is the lawyer for you as conservator.

(18) When a minor for whom a conservatorship was established reaches the age of 18, or when the court is satisfied that the protected person is no longer financially incapable, you may pay all claims and expenses of administration as approved in final accounting filed with the court, and distribute all remaining funds and properties to the former minor or protected person as soon as possible.

(19) You must not enter into any transaction in which there is a potential conflict of interest. Any sale or encumbrance of conservatorship assets to a conservator, the spouse, agent or business partner of the conservator is voidable, unless first approved by the Court.

(20) You must obtain Court authority to resign as conservator, even if the protected person dies.

(2149) Upon the death of the protected person, you must deliver to the court any will of the deceased that has come into your possession, inform the personal representative or a beneficiary named in the will that you have done so, and preserve the conservatorship estate for delivery to the personal representative of the deceased protected person, claiming successor, trustee or other person entitled to the assets. You must file a final accounting of conservatorship assets.

I have provided this list of duties to the conservator.

Attorney for Conservator _____ *Date*

I have read these duties and understand that I must fulfill these duties as conservator.

Conservator _____ *Date*

CONSERVATORSHIP DUTIES

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