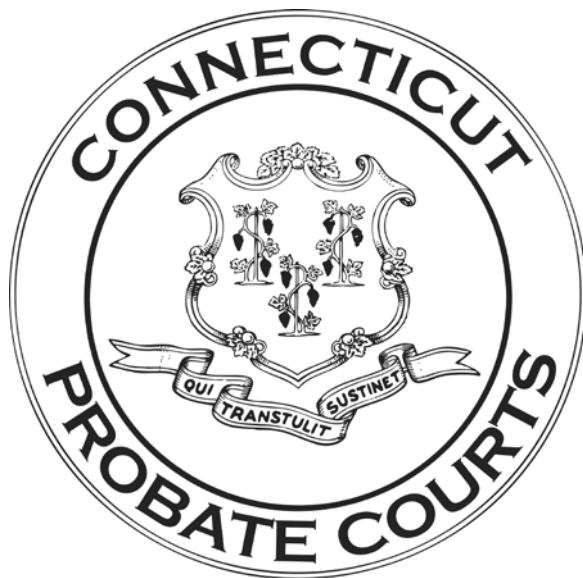


**CONNECTICUT**  
**STANDARDS OF PRACTICE**  
**FOR**  
**CONSERVATORS**



PUBLISHED BY

OFFICE OF THE  
PROBATE COURT ADMINISTRATOR  
STATE OF CONNECTICUT  
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## PREFACE

A person who becomes a conservator takes on critically important responsibilities for a fellow citizen in a time of great need. The purpose of the Connecticut Standards of Practice is to provide guidance for conservators as they perform this vital and demanding role. The Standards set forth the duties of conservators, ethical principles and key considerations for decision-making.

C.G.S. sections 45a-655 and 45a-656 mandate that conservators be guided by the Standards when carrying out their duties. All conservators must therefore become familiar with the Standards immediately upon being appointed. In addition, I urge all conservators to take advantage of the free online training program for conservators, which is available on [ctprobate.gov](http://ctprobate.gov).

The Standards are the product of a collaborative effort. The document was drafted by the Probate Assembly's Conservatorship Guidelines Committee, a group comprised of attorneys, conservators, court staff and judges. The committee focused its work on producing a document that establishes high expectations for conservators without losing sight of the practical realities that conservators face on a day-to-day basis. My sincere thanks to the committee's chair, Judge Mark DeGennaro of the West Haven Probate Court, and all the members of the committee for volunteering their time on this important project. The members of the committee are listed on page four.

I also want to credit the National Guardianship Association (NGA), which provided the foundation for our work with its excellent publication, Standards of Practice. NGA is a leader in elevating the professionalism of conservators across the nation, and its Standards of Practice is widely recognized as the pre-eminent resource on conservatorship best practices. We have tailored the Connecticut Standards to reflect the specifics of our state's law, but the NGA Standards and the Connecticut Standards are entirely consistent.

On behalf of the State of Connecticut, I thank all conservators for serving in this enormously important role and for taking the time to master the responsibilities associated with it.

Paul J. Knierim  
Probate Court Administrator

**Connecticut Probate Assembly**  
**Conservatorship Guidelines Committee**

**2017 – 2018**

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## DEFINITIONS

**Advance directive** – A written instruction, such as a living will or appointment of health care representative, which guides care when an individual is terminally ill or incapacitated and unable to communicate his or her desires.

**Capacity** – The ability to receive and evaluate information and make and communicate decisions.

**Conservator** – A person or entity appointed by a court with the authority to make some or all decisions on behalf of an individual whom the court has found to be incapable or who has voluntarily requested the appointment of a conservator.

**Temporary Conservator** – A conservator who is appointed in an emergency and whose authority expires after 30 days.

**Conservator of the Estate** – A conservator who possesses any or all powers with regard to a conserved person's finances.

**Conservator of the Person** – A conservator who possesses any or all powers with regard to a conserved person's personal affairs.

**Conserved person** – A person for whom the court has appointed a conservator. For the purposes of these Standards of Practice, the term includes a person for whom the court has appointed a conservator in a voluntary proceeding.

**Court** – The Probate Court that appointed the conservator or the court to which the conservatorship was subsequently transferred.

**Decree** – A legal document signed by a judge that memorializes an order or decision.

**Court-required report** – A report that the conservator is required to submit to the court under the statutes, the Probate Court Rules of Procedure or court order.

**Fiduciary** – A person or entity that has agreed to undertake for another a special obligation of trust and confidence, having the duty to act primarily for another's benefit and subject to the standard of care imposed by law or contract.

**Life support system** – Any medical procedure that serves only to postpone the moment of death or maintain an individual in a state of permanent unconsciousness. Life support systems may include ventilation, dialysis, blood transfusion, medication, nutrition, hydration and other medical procedures.



## **Standard 1 Applicable Law**

- I. The conservator shall perform the conservator's duties in accordance with current law, the requirements of the court and these Standards of Practice. A free online training program on the duties of a conservator is available on [ctprobate.gov](http://ctprobate.gov).

## **Standard 2 Conservator's Relationship with the Court**

- I. The conservator shall know the extent of the powers granted by the court and the limitations on the conservator's authority. All decisions and actions shall be consistent with the decree appointing the conservator.
- II. Prior court approval is mandated by statute for the actions described in Standards 12(1)(A)(1) (change of residence or placement in long-term care facility), 12(1)(D) (commitment for treatment of psychiatric disability, authority to consent to medication for treatment of psychiatric disability and sterilization procedures) and 19(1) (sale of real estate or household furnishings). If prior court approval is not mandatory, the conservator may petition the court to approve a proposed action or ratify an action that the conservator has already taken.
- III. All compensation paid to the conservator is subject to review and approval by the court.
- IV. The conservator shall submit all court-required reports in a timely manner.
- V. The conservator shall seek termination or modification of the conservatorship when the conserved person has developed or regained capacity in areas in which the court previously found the conserved person to be incapable or when less restrictive means of meeting the needs of the conserved person become available.
- VI. The conservator shall promptly report abuse or exploitation to the appropriate authorities.

### **Standard 3 Conservator's Professional Relationship with the Conserved Person**

- I. The conservator shall treat the conserved person with dignity.
- II. The conservator shall maintain a professional relationship with the conserved person, the conserved person's family and the conserved person's friends. The conservator shall avoid personal relationships with any such individual unless the conservator is a family member or unless the relationship existed before the conservator was appointed.
- III. The conservator may not engage in sexual relations with the conserved person unless the conservator is the conserved person's spouse or was in a physical relationship with the conserved person before the conservator was appointed.

### **Standard 4 Familial and Social Relationships**

- I. The conservator shall promote social interactions and meaningful relationships between the conserved person and other individuals that are consistent with the conserved person's preferences.
  - A. The conservator shall encourage and support the conserved person in maintaining contact with family and friends, as defined by the conserved person, and make reasonable efforts to maintain the conserved person's established social and support networks.
  - B. The conservator may not interfere with established relationships unless necessary to protect the conserved person from substantial harm. The conservator may petition the court to resolve an issue regarding visitation or other contact between the conserved person and family and friends.
  - C. The conservator shall maintain communication with the conserved person's family and friends regarding significant occurrences and pertinent medical issues.

- II. The conservator shall protect the conserved person's right to consensual sexual expression.
  - A. The conservator shall ensure that the conserved person has information about sexual activity that is appropriate in light of the conserved person's level of ability.
  - B. To the extent that the conserved person wishes to engage in sexual expression and within the resources available to the conserved person, the conservator shall arrange access to accommodations that permit sexual expression in privacy.
  - C. The conservator shall take reasonable steps to ensure that the conserved person's sexual expression is consensual and to protect the health and well-being of the conserved person. The conservator shall provide the conserved person with information about, and access to, birth control.

**Standard 5 Cooperation with Other Professionals, Service Providers and Surrogate Decision-Makers**

- I. The conservator shall treat all professionals and service providers with courtesy and respect and shall strive to enhance cooperation on behalf of the conserved person.
- II. The conservator shall make reasonable efforts to become familiar with the services, providers and facilities available in the community.
- III. Within the resources available to the conserved person, the conservator shall engage the services of professionals, such as attorneys, accountants, investment advisors, real estate agents and physicians, as necessary to meet the goals, needs and preferences of the conserved person.
- IV. The conservator shall cooperate with the conserved person's other fiduciaries, including any other conservator, agent under a power of attorney, health care representative, trustee, VA fiduciary or representative payee.

## **Standard 6 Reserved for Future Use**

### **Standard 7 Standards for Decision-Making**

- I. When making decisions on behalf of the conserved person, the conservator shall:
  - A. Seek a clear understanding of the issue, the available alternatives and the expected outcomes, risks and benefits of each alternative;
  - B. Encourage the conserved person to participate in the decision-making process; and
  - C. Follow the conserved person's preferences unless adherence would cause substantial harm.

#### **II. Conserved Person's Current Preferences**

The conservator shall seek to determine the conserved person's current preferences by asking the conserved person what he or she wants. The conservator shall arrange appropriate assistance if the conserved person has difficulty expressing what he or she wants.

#### **III. Substituted Judgment**

If the conserved person is unable to express current preferences, the conservator shall use substituted judgment to determine what the conserved person's preferences would have been if the conserved person currently had capacity. When using substituted judgment, the conservator shall look to the conserved person's past practices and past expressions of preferences and shall seek input from family, friends, professionals and others who are familiar with the conserved person.

#### **IV. Best Interests**

If the conserved person's preferences cannot be ascertained or adherence to the conserved person's

preferences would cause substantial harm, the conservator shall make a decision based on the conserved person's best interests. When using a best interests analysis, the conservator shall determine the course of action that is objectively best for the conserved person in light of all relevant factors.

### **Standard 8 Least Restrictive Alternative**

- I. When deciding on a course of action, the conservator shall carefully evaluate the available alternatives and choose the alternative that best meets the personal and financial goals, needs and preferences of the conserved person while minimizing restrictions on the conserved person's freedom, rights and ability to control his or her environment.
- II. The conservator shall weigh the risks and benefits of a proposed course of action and develop a balance between maximizing the independence and self-determination of the conserved person and maintaining the conserved person's dignity, protection and safety.
- III. The conservator shall make individualized decisions. The least restrictive alternative for one person might not be the least restrictive alternative for another person.
- IV. The conservator shall make reasonable efforts to become familiar with the available options for residence, care, medical treatment, vocational training and education.
- V. The conservator shall consider an independent assessment of the conserved person's functional ability, health status and care needs.

### **Standard 9 Independence and Self-Determination**

- I. The conservator shall provide the conserved person with the opportunity to exercise his or her individual rights.
- II. The conservator shall assist and encourage the conserved person in maximizing independence and self-determination.

- III. The conservator shall assist and encourage the conserved person in developing or regaining capacity to the maximum extent possible.

## **Standard 10 Reserved for Future Use**

## **Standard 11 Confidentiality**

- I. The conservator shall keep the affairs of the conserved person confidential but may disclose information about significant occurrences or patient medical issues in a manner that is consistent with the conserved person's preferences when necessary to arrange care or to inform family and friends.
- II. The conservator shall respect the conserved person's privacy and dignity, especially when the disclosure of information is necessary.
- III. Disclosure of information shall be limited to what is necessary and relevant to the issue being addressed.
- IV. The conservator may refuse to disclose sensitive information about the conserved person when disclosure would be detrimental to the well-being of the conserved person or would subject the conserved person's estate to undue risk.
- V. The conservator may petition the court to resolve an issue regarding the disclosure of information.

## **Standard 12 Duties of the Conservator of the Person**

- I. With the proper authority and within the resources available to the conserved person, the conservator of the person shall have the following duties:
  - A. The conservator shall arrange for the conserved person to live in an appropriate environment that addresses the conserved person's goals, needs and preferences.

1. The conservator shall petition the court for approval before changing the conserved person's residence or placing the conserved person in a long-term care facility. If the placement in a long-term care facility results from the discharge of the conserved person from a hospital, the conservator shall petition the court for approval within five days of the placement.
  2. The conservator shall strive to enable the conserved person to live at home or in another community-based setting when consistent with the conserved person's preferences.
  3. The conservator shall consider placement in a long-term care facility or other more restrictive environment only after evaluating other medical and health care options. The conservator shall petition the court for authority to make the placement only after making an independent determination that the move is necessary to minimize the risk of substantial harm and secure the best treatment and that the placement is the least restrictive alternative at the time.
  4. When choosing a residential setting, the conservator shall consider the proximity of the setting to those people and activities that are important to the conserved person.
- B. The conservator shall arrange for the support, care, comfort, health and maintenance of the conserved person.
- C. The conservator shall make reasonable efforts to secure appropriate medical, psychiatric, psychological, therapeutic, social, educational, vocational and recreational services to maximize the conserved person's well-being and potential for independence and self-determination.
- D. The conservator shall petition for prior court approval for:

1. Commitment for treatment of psychiatric disability;
2. Authority to consent to administration of medication for treatment of psychiatric disability; or
3. Sterilization procedures.

### **Standard 13 Conservator of the Person: Initial and Ongoing Responsibilities**

- I. With the proper authority and within the resources available to the conserved person, the conservator or the conserved person shall take the following initial steps after appointment:
  - A. The conservator shall review the decree appointing the conservator to ascertain the specific duties that the court has assigned to the conservator and any limitations on the conservator's authority.
  - B. The conservator shall address all of the conserved person's issues that require immediate action.
  - C. The conservator shall meet with the conserved person as soon after the appointment as is feasible. At the first meeting, the conservator shall:
    1. Communicate the role of the conservator;
    2. Assess the conserved person's physical and social situation, available support systems and need for services; and
    3. Inquire about the conserved person's goals, needs and preferences, including the ethnic, religious and cultural values with which the conserved person identifies.
  - D. The conservator shall notify relevant agencies and individuals of the conservator's appointment.



- E. The conservator shall establish contact with, and develop a regular pattern of communication with, the conservator of the estate or any other fiduciary for the conserved person.
  - F. The conservator shall obtain a copy of any advance directives that the conserved person has executed, including any living will, appointment of health care representative, organ donation statement, do not resuscitate order or medical order for life-sustaining treatment. The conservator shall determine whether the court has issued any orders that continue, limit, suspend or terminate the authority of any fiduciary appointed under an advance directive.
- II. With the proper authority and within the resources available to the conserved person, the conservator of the person shall perform the following tasks on an ongoing basis:
- A. The conservator shall maintain ongoing contact with the conserved person.
  - B. The conservator shall develop and implement a written conservatorship care plan setting forth short-term and long-term objectives for meeting the goals, needs and preferences of the conserved person. The conservator shall update the plan at least annually.
  - C. The conservator shall advocate on behalf of the conserved person with staff at any long-term care facility or other residential placement. The conservator shall assess the overall quality of services provided to the conserved person and seek remedies when care is found to be deficient.
  - D. The conservator shall maintain a separate file for each conserved person. The file must include, at a minimum, the following information and documents:

1. The conserved person's name, date of birth, address, telephone number, Social Security number, medical coverage and physician;
2. Legal documents;
3. Advance directives;
4. A list of key family and social contacts;
5. A list of service providers;
6. The conservatorship plan and progress notes; and
7. Documentation of the conserved person's known preferences regarding medical care, support services and funeral arrangements.

#### **Standard 14 Decision-Making about Medical Treatment**

- I. If the conserved person has a health care representative, the conservator shall make decisions about medical treatment in conformance with any instructions provided by the representative. The conservator may petition the court to resolve a conflict with the representative.
- II. With the proper authority and within the resources available to the conserved person, the conservator shall monitor and promote the health and well-being of the conserved person and shall arrange appropriate medical care for the conserved person.
- III. The conservator shall speak directly with the medical provider before authorizing or denying medical treatment.
- IV. The conservator shall seek a second opinion from an independent physician for any medical treatment or intervention that poses a significant risk to the conserved person.
- V. The conservator may seek ethical, legal and medical advice when making a medical decision.

## **Standard 15 Decision-Making about Withholding and Withdrawal of Life Support Systems**

- I. If the conserved person has a health care representative, the conservator shall make decisions about life support systems in conformance with any instructions provided by the representative. The conservator may petition the court to resolve a conflict with the representative.
- II. With the proper authority and within the resources available to the conserved person, the conservator shall follow the wishes of the conserved person regarding life support systems. The conservator shall seek to determine the conserved person's current wishes and shall review the conserved person's advance directives, if any, and any other relevant information to determine whether the conserved person previously expressed wishes regarding life support systems. If the conserved person's current wishes are in conflict with wishes previously expressed when the conserved person had capacity, the conservator shall petition the court for direction.
- III. If the conservator cannot determine the conserved person's present or previously expressed wishes regarding life support systems, the conservator shall adhere to a presumption in favor of arranging appropriate continued medical treatment for the conserved person.

## **Standard 16 Reserved for Future Use**

## **Standard 17 Duties of the Conservator of the Estate**

- I. With the proper authority and within the resources available to the conserved person, the conservator of the estate shall have the following duties:
  - A. The conservator shall manage the conserved person's finances solely for the benefit of the conserved person.
  - B. The conservator shall give priority to the goals, needs and preferences of the conserved person.

- C. The conservator shall manage the finances of the conserved person in a way that maximizes the dignity, independence and self-determination of the conserved person.
- D. The conservator shall supervise all income and disbursements.
- E. The conservator shall seek public and insurance benefits that are beneficial for the conserved person.
- F. The conservator shall manage the conserved person's investments in accordance with the requirements of the Prudent Investor Act, which is set forth in sections 45a-541 to 45a-541i of the General Statutes.
- G. The conservator shall maintain records of all transactions in accordance with section 36.13 of the Probate Court Rules of Procedure.
- H. The conservator shall keep the conserved person's funds separate from the conservator's own funds and keep the funds of each conserved person separate from the funds of other conserved persons on whose behalf the conservator serves.
- I. The conservator shall seek payment on a claim against a third party on behalf of the conserved person if the conservator determines that the potential for recovery reasonably outweighs the cost of the action. The conservator shall defend against any invalid or doubtful claim brought by a third party against the conserved person. When pursuing recovery or defending against claims, the conservator shall not act as attorney for the conserved person except as provided in paragraph V of Standard 20.

## **Standard 18 Conservator of the Estate: Initial and Ongoing Responsibilities**

- I. With the proper authority and within the resources available to the conserved person, the conservator of the estate shall take the following initial steps after appointment:
  - A. The conservator shall review the decree appointing the conservator to ascertain the specific duties that the court has assigned to the conservator and any limitations on the conservator's authority.
  - B. The conservator shall obtain a copy of any power of attorney that the conserved person has executed and determine whether the court has ordered the continuation, limitation, suspension or termination of any such power of attorney.
  - C. The conservator shall address all issues of the estate that require immediate action, including action to secure and insure all real and personal property.
  - D. The conservator shall meet with the conserved person as soon after the appointment as is feasible. At the first meeting, the conservator shall:
    1. Communicate the role of the conservator; and
    2. Assess the conserved person's finances in relation to the need for medical, psychiatric, psychological, therapeutic, social, educational, vocational and recreational services.
  - E. The conservator shall ascertain the conserved person's income, assets and liabilities.
  - F. The conservator shall notify all relevant financial institutions, income sources, agencies and individuals of the conservator's appointment.

- G. The conservator shall establish a channel of communication with the conservator of the person or any other fiduciary for the conserved person.
  - H. The conservator shall submit an inventory of the conserved person's assets to the court.
- II. With the proper authority and within the resources available to the conserved person, the conservator of the estate shall perform the following tasks on an ongoing basis:
- A. The conservator shall maintain ongoing contact with the conserved person.
  - B. The conservator shall obtain a copy of any will, trust agreement or other estate planning instrument that the conserved person has executed and shall, to the maximum extent possible, manage the conserved person's assets in a manner that is consistent with the estate plan.
  - C. The conservator shall develop an annual conservatorship budget for the management of income and assets that corresponds with the care plan for the conserved person and aims to address the goals, needs and preferences of the conserved person. The budget shall value the well-being of the conserved person over the preservation of the assets.
  - D. The conservator shall submit periodic and final financial reports to the court in accordance with Rules 33, 36, 37 and 38 of the Probate Court Rules of Procedure.

### **Standard 19 Sale of Property**

- I. The conservator may not sell the conserved person's real estate or household furnishings without prior court approval.
- II. When deciding whether to sell any of the conserved person's property, the conservator shall consider:

- A. The conserved person's current or previously expressed wishes;
  - B. The costs and benefits of maintaining the property;
  - C. The likelihood that the conserved person will need or benefit from the property in the future;
  - D. The provisions of the conserved person's estate plan as it relates to the property, if any;
  - E. The tax consequences of the transaction;
  - F. The impact of the transaction on the conserved person's eligibility for public benefits;
  - G. The ability of the conserved person to maintain the property; and
  - H. Whether the property is likely to deteriorate.
- III. If the conservator determines that an item of the conserved person's property should be sold, the conservator shall consider whether an independent appraisal is necessary before marketing the property for sale.
- IV. The conservator may notify family members and friends and give them the opportunity, with prior court approval, to obtain assets that have sentimental value.
- V. If the conservator sells a parcel of the conserved person's real estate that the conserved person's will gives to a specific beneficiary, the conservator shall hold the proceeds from the sale in a separate account. The conservator shall not use the proceeds for the conserved person's care unless all other funds have been exhausted.

## **Standard 20 Conflicts of Interest**

- I. The conservator shall avoid all conflicts of interest and the appearance of conflicts of interest. A conflict of interest arises when the conservator has some personal interest that

is adverse to the position or best interests of the conserved person.

- II. A professional conservator may not initiate a petition for an involuntary conservatorship for an individual unless the conservator is a member of the individual's family, or the conservator has a long and close personal relationship with the individual.
- III. The conservator may not profit from any transactions made on behalf of the conserved person's estate at the expense of the estate.
- IV. The conservator may not receive compensation for directly providing housing, medical or other services to the conserved person without prior court approval. A conservator who is not related to the conserved person may petition the court to approve compensation for direct services to the conserved person only if no reasonable alternative is available.
- V. A conservator who is an attorney or employs attorneys may not receive compensation for providing legal services to the conserved person without prior court approval. The conservator shall document services rendered as conservator separately from services rendered as attorney.
- VI. The conservator shall be independent from all service providers to ensure that the conservator remains free to challenge inappropriate or poorly delivered services and to advocate on behalf of the conserved person. The conservator shall neither solicit nor accept incentives from service providers.
- VII. The conservator may not enter into a transaction that may be a conflict of interest without prior court approval. The conservator may petition for court approval of the transaction involving a conflict of interest only if there is a significant benefit to the conserved person.



- VIII. The conservator may not sell, give, lend or otherwise transfer any of the conserved person's income or assets to himself or herself or to a family member, coworker, employee or agent of the conservator without prior court approval. The conservator may not purchase any asset on behalf of the conserved person from any of the parties listed in this paragraph.

### **Standard 21 Reserved for Future Use**

### **Standard 22 Conservator Compensation**

- I. Conservators are entitled to reasonable compensation for their services. All compensation is subject to review and approval by the court.
- II. The conservator's compensation is paid from the income and assets of the conserved person unless the court determines that the conserved person is unable to pay under the criteria set forth in section 16 of the Probate Court Regulations. When making decisions regarding providing conservatorship services and seeking compensation for those services, the conservator shall bear in mind the responsibility to conserve the conserved person's estate.
- III. Except in the case of a conserved person whom the court has determined is unable to pay for the services of a conservator, the court will consider the following factors when determining the reasonableness of the conservator's compensation:
  - A. The size of the estate;
  - B. The responsibilities involved;
  - C. The character of the work required;
  - D. Special problems and difficulties met in doing the work;
  - E. The results achieved;
  - F. The knowledge, skill and judgment required;

- G. The manner and promptness in which the matter was handled;
  - H. The time required; and
  - I. Other relevant and material circumstances.
- IV. The conservator shall maintain sufficient documentation of the conservator's work to address the factors set forth in paragraph III of this Standard. On request of the court, the conservator shall submit a task statement in accordance with section 39.2 of the Probate Court Rules of Procedure.
- V. If the court determines that the conserved person is unable to pay for the services of the conservator, the conservator's compensation shall be calculated in accordance with section 16 of the Probate Court Regulations and paid from the Probate Court Administration Fund.

### **Standard 23 Management of Multiple Cases**

- I. The conservator shall limit the conservator's caseload to a size that allows the conservator to support, protect and maintain ongoing contact with each conserved person.
- II. The size of the conservator's caseload must be based on an evaluation of the time involved in each case, other demands on the conservator and support available to the conservator.

## **Appendix A**

### **Ethical Principles for Conservators**

(Derived from the National Guardian Association's Ethical Principles)

1. A conservator treats the conserved person with dignity.
2. A conservator involves the conserved person to the greatest extent possible in all decision-making.
3. A conservator selects the option that places the least restrictions on the conserved person's freedom and rights.
4. A conservator identifies and advocates for the conserved person's goals, needs and preferences.
5. A conservator maximizes the independence and self-determination of the conserved person.
6. A conservator keeps the affairs of the conserved person confidential.
7. A conservator avoids conflicts of interest.
8. A conservator complies with all laws and court orders.
9. A conservator manages all financial matters carefully.
10. A conservator respects that the money and property being managed belong to the conserved person.

**Appendix B**  
**Annual Conservatorship Care Plan**

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- Instructions:**
- 1) A conservator of the person shall prepare an annual care plan to promote the goals, needs and preferences of the conserved person.
  - 2) The conservator shall update the plan at least once a year.
  - 3) It is not necessary to file this form with the Probate Court.
- 

**Name of Conserved Person**

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**Name of Conservator of the Person**

**Date**

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**Objectives for the Current Year:**

1.

2.

3.

4.

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**Long-Term Objectives:**

1.

2.

3.

4.



# NOTES