

**PROBATE ADVISORY WORKGROUP  
REPORT AND RECOMMENDATIONS FOR ADDRESSING THE  
AUGUST 2017 – JUDICIAL BRANCH PERFORMANCE AUDIT  
REGARDING PUBLIC ADMINISTRATORS**

**May 2018**

**TO: Chief Justice Nancy Rice  
Christopher Ryan, State Court Administrator**

Following is the Probate Advisory Workgroup (Workgroup) Report and Recommendations for addressing the August 2017 – Judicial Branch Performance Audit Regarding Public Administrators, as directed by Chief Justice Rice in the Workgroup's Supplemental Charge issued October 24, 2017.

In addition to the Workgroup's existing charge, the Workgroup was specifically tasked with formulating policies and procedures to address the recommendations contained in the 2017 Public Administrator Audit.

The Workgroup was directed to prepare a report to the Chief Justice and the State Court Administrator by May 31, 2018, describing the recommendations for addressing the audit issues.

The Workgroup's first meeting was held on October 26, 2017, with subsequent meetings on December 15, 2017, February 9, 2018, and May 16, 2018 in compliance with the suggested timeline outlined in the Supplemental Charge. All meetings were open to the public, with notice of the meeting dates and all meeting materials posted prior to the meeting date on the Judicial Branch's website at [www.courts.state.co.us](http://www.courts.state.co.us). Call-in information was also provided for those wishing to attend via phone.

On January 19, 2018, John Sarché, Deputy Public Information Officer for the Colorado Judicial Department, distributed a News Release to media outlets titled: *Judicial Department seeks public input on proposed changes to public administrator practices*. The Branch's website was updated with the information from the News Release, including an email address for the public to provide feedback on the Workgroup's recommendations to the Legislative Audit Committee regarding potential legislation.

The Workgroup completed the following actions when preparing this Report:

During the October 26, 2017 Probate Advisory Workgroup (PAW) meeting, a subcommittee was formed to carefully consider each of the audit recommendations, discuss and consider best practices, and make recommendations to the Workgroup, including potential legislation. The subcommittee members are as follows:

- Elizabeth Leith, Presiding Denver Probate Judge and Chair of the Probate Advisory Workgroup
- James Hartmann, Chief Judge, 19<sup>th</sup> Judicial District
- Melissa Schwartz, Esq. and Public Administrator, 2<sup>nd</sup> Judicial District
- Casey Williams, Esq. and Deputy Public Administrator, 17<sup>th</sup> Judicial District
- Connie Lind, Probate Programs Coordinator, State Court Administrator's Office

The overall approach to this work when reporting back to the Chief Justice, and ultimately to the Legislative Audit Committee and the Office of the State Auditor will be to the following:

- o Consider the audit recommendations to the Judicial Branch;
- o Subject the issues to a process of review and analysis;
- o Determine whether current practices are the most appropriate and most reasonable;
- o Consider whether substantial and wide-ranging changes are necessary or advisable;
- o Demonstrate the Workgroup has gone through the review process;
- o Should the Workgroup's recommendations differ from those in the audit report, the Workgroup will note the reasons for the difference or why implementation of the audit recommendation may not be advisable;
- o Should the Workgroup agree with the audit recommendations, the Workgroup will note the inherent costs and fees to the estates, and consider whether these costs and fees are appropriate considering the amount of work involved and the benefit to the estate; and
- o Workgroup decisions based on the review process must support the outcome.

**Comment [rh1]:** Should these bullets be formatted the same way the bullets on page 7 are formatted?

**Comment [rh2]:** Would it make more sense if these were their own separate paragraph?

#### **I. AUDIT RECOMMENDATION 1:**

The Judicial Branch should implement mechanisms for collecting sufficient information from Public Administrators for the courts to assess the reasonableness of fees charged to and costs collected from decedent's estates and protected persons' accounts. This should include collecting information for the hourly rate, number of hours charged, and description of each distinct service provided, and providing guidance on the information that should be included in the small estate statement of accounts.

#### ***Workgroup Response to Audit Recommendation 1---fee and cost statements:***

C.R.S. §15-12-621(6): The Workgroup recommends requiring copies of all fee statements reflecting fees and costs be filed with the PA statement of accounts.

## **II. AUDIT RECOMMENDATION 2:**

The Judicial Branch should ensure that it collects and maintains the fundamental data needed to oversee the Public Administrator function in Colorado and to assess Public Administrator performance by:

**A.** Standardizing the format and content of Public Administrator annual reports and ensuring that they include key elements needed to assess the performance of Public Administrator (e.g., total number of hours worked as a Public Administrator and total hours worked per case, tally of total caseload, cumulative fees for a given year and for each case, value of the estates, etc.). The Judicial Branch should then provide guidance to Public Administrators on the information required in the annual reports.

**B.** Revising the Judicial Resource Manual to specify that court staff must enter the code designating when a Public Administrator is appointed to an estate case, and assign a case number and record details on each small estate reported by Public Administrators, including those reported in a bundle.

**C.** Implementing mechanisms to collect and track key information related to Public Administrator performance.

**D.** Using the information obtained in Parts A, B, and C to assess the performance of Public Administrators and Deputy Public Administrators in the judicial districts to determine if the function is achieving its purpose.

### ***Workgroup Response to Audit Recommendation 2(A) ~~)-annual reports:~~***

C.R.S. §15-12-623(2): The Workgroup recommends requiring deputy public administrators to file annual reports; requiring public administrators and deputy public administrators to complete the annual report using a standard format as directed by the Chief Justice; ~~and in addition to the standard report,~~ provide any additional information required by the appointing court ~~in addition to the standard report.~~ The Workgroup recommends the ~~public~~ Public administrator ~~Administrator~~ and ~~deputy~~ Deputy public administrator ~~Administrator~~ attach the current fee schedule to the annual report submitted to the appointing court.

**Comment [rh3]:** Throughout report, either all capitalized or none capitalized for consistency.

## **III. AUDIT RECOMMENDATION 3:**

The Judicial Branch should ensure that Public Administrators maintain bonds of sufficient value to adequately protect the estates and conservatorships they oversee by:

**A.** Implementing written policies and procedures to clarify that anyone appointed to act in the capacity of Public Administrator, including Deputy Public Administrators, must comply with the statutory bond requirements and that judicial districts should obtain proof from Public Administrators and Deputy Public Administrators that a bond has been

procured, appropriately filed with the Secretary of State's Office, and updated as needed.

**B.** Assessing the level of bond that would sufficiently cover the activities of Public Administrators, pursuing any necessary changes to the statutory bond amount based on this assessment, and providing guidance to the judicial districts and courts on bond amounts for Public Administrators.

***Workgroup Response to Audit Recommendation 3(A) ~~PA~~ P.A. written policies and procedures:***

**Comment [rh4]:** Periods weren't used earlier in recommendation 1 response.

The Workgroup reviewed guidelines for the Offices of the Public Administrator. The guidelines are the work product of a Subcommittee of the Colorado Bar Association's Trust and Estate Section, Statutory Revisions Committee formed to address and prepare appropriate and consistent policies and procedures for offices of all public administrators in the State of Colorado. The policies and procedures recommended include: oversight by the appointing court; the contents of the annual report; file maintenance; case management; internal office procedures; handling of trust and bank accounts; employment and personnel standards; insurance and bonding; conflicts of interest; and sale of assets.

**Comment [rh5]:** To match wording in response to Rec 3B below.

The final draft approved by the Workgroup is attached at the end of this report.

***Workgroup Response to Audit Recommendation 3(B) ~~—~~ bond requirements:***

C.R.S. §15-12-619(4): The Workgroup recommends increasing the general bond for a public administrator from \$25,000 to \$100,000; and

C.R.S. §15-12-619(6): Recommends deputy public administrators be subject to all requirements of public administrators as set forth in this statutory section, including bond.

The Workgroup's responses were also vetted through a Public Administrator work group (which is informally run by Melissa Schwartz and is attended variously by Public Administrators and Deputy Public Administrators throughout the State), and the Colorado Bar Association's Trust and Estate Section Statutory Revisions Committee. These groups did not express any concerns with these recommendations.

**Comment [rh6]:** Earlier used "and"

Implementation of an increase to the bond is pending passage of proposed legislation.

**Small Estates**

***Additional Response to Audit Recommendation 1 ~~—~~ filing of statement of accounts for small estates:***

In addition to the recommended statutory revisions as previously noted, the Workgroup approved the creation of a new Judicial Department Form (JDF) *Public Administrator's Statement of Accounts Pursuant to Small Estates Procedure*. This form is attached to the end of this report.

This form was presented to and approved by the Supreme Court Probate Rules Committee, and will be submitted to the Supreme Court for final approval. If approved, it will be posted on the Branch's website for public administrators to use.

***Workgroup Response to Audit Recommendation 2(B) – ~~court records of small estate cases.~~***

The *Public Administrator's Statement* section of the Judicial Resource Manual (JRM) has been revised to include the above-mentioned changes, as well as directing court staff to assign a separate case number ~~and record onto~~ each small estate reported by Public Administrators, including those reported ~~in a bundle~~ as a group.

**Comment [lc7]:** The language in this section is consistent with the language used in the Audit Report.

Implementation is pending approval of the form and passage of proposed legislation.

### Conservatorships

Audit Recommendation 1 recommends collecting information regarding the hourly rate, number of hours charged, and the description of each distinct service provided by Public Administrators for the Branch to assess the reasonableness of fees charged to and costs collected from protected persons' accounts.

***Additional Response to Audit Recommendation 1 – ~~oversight of P.A. fees and costs in conservatorship cases.~~***

The Workgroup has determined that JDF 885 – *Conservator's Report, Step 4: Professional Fees Detail* currently requires this information. Therefore, the Workgroup is not recommending changes to this form or ~~for additional~~ legislation.

### Large Estates

Audit Recommendation 1 recommends collecting information regarding the hourly rate, number of hours charged, and the description of each distinct service provided by Public Administrators for the Branch to assess the reasonableness of fees charged to and costs collected from decedents' estates.

The General Assembly adopted the Colorado Probate Code in 1974, which is based on the Uniform Probate Code. The policies underlying the Colorado Probate Code include the simplification and clarification of probate law; the speedy and efficient settlement of estates and their distribution to successors. Prior to adoption of the Colorado Probate

**Comment [rh8]:** The entire code was revised & reenacted in 2001. Should that be included so it doesn't sound like the current code is more than 40 years old?

Code, Colorado's system of probate administration for decedent's estates was conducted under the supervision of the probate court, which includes a district court sitting in probate. Supervised administration required a probate court to conduct hearings to probate the decedent's will or to determine intestacy and appoint the executor, now known as the personal representative. The probate court was also required to review all actions taken by the executor such as collection of assets, sale of property and the payment of bills owed by the estate.

Supervised administration was time-consuming and required the employment of sufficient court personnel to review the executor's actions for each estate filed with the probate court. Adoption of the Colorado Probate Code eliminated the probate court's duty to supervise administration of every decedent's estate and enacted a policy of unsupervised administration for each estate, while retaining the court's or an interested person's ability to request supervised administration when necessary. In unsupervised administration, after the order of appointment is entered and Letters of authority are issued, the probate court does not review any actions of a personal representative or require review to close an estate unless a request is made by an interested party or the matter comes to the attention of the probate court.

All Public and Deputy Public Administrators are statutorily required to comply with all requirements imposed under the Colorado Probate Code for a personal representative generally. In addition to the general requirements, Public and Deputy Public Administrators are statutorily required to close all decedent's estates administered in their capacities as Public and Deputy Public Administrators formally. [C.R.S. §15-12-621(5)]. A formal closing requires the filing of a petition for final settlement and distribution, a final accounting, with notice of the filing provided to all interested parties, and scheduling the matter for either a non-appearance hearing or an appearance hearing before the Court. (C.R.S. §15-12-1001). A formal closing also involves a formal review by the Court of the proposed distribution and the personal representative's accounting of his or her administration of the estate, which includes the fees and costs charged to the estate.

***Additional Response to Audit Recommendation 1---detailed accounting of professional fees incurred by P.A.***

The Workgroup believes the existing process to formally close a decedent's estate provides sufficient information regarding the Public and Deputy Public Administrator's fees and costs charged to the estate, and that to require further scrutiny of accounts for these cases would result in additional costs assessed against estates in the form of attorney, accountant, or other professional fees, and run counter to the public policy expressed by the General Assembly through adoption of the Colorado Probate Code. The Workgroup notes that, should the Court or any interested person believe that additional documentation of the reasonableness of the Public Administrator's fees and costs ~~be is~~ necessary, ~~either~~ the Court, ~~or~~ the interested party, or both, can request that further documentation be provided, including copies of any and all billing statements generated by the Public Administrator's office. ~~The statutes~~ Statute requires that all

Public Administrators “shall maintain detailed time records for all charged services. The Public Administrator shall attempt to minimize fees while providing quality fiduciary, administrative, and legal services to all assigned estates.” [C.R.S. §15-12-623(3)]-

Thus, the Workgroup has concluded that existing statutory processes provide sufficient opportunity for reviewing fees charged in large estates.

Similarly, the Colorado Probate Code directs that trust administration is to be conducted “...free of judicial intervention and without order, approval, or other action of any court, subject to the jurisdiction of the court as invoked by interested parties or as otherwise exercised as provided by law...” [C.R.S. §15-16-201(2)]. This is true regardless of whether even if a Public or Deputy Public Administrator is appointed as a Trustee of a trust in accordance with C.R.S. §15-16-205, “Proceedings for review of employment of agents and review of compensation of trustee and employee”-.”

### **Public Administrators As Licensed Attorneys**

The Workgroup notes that currently, all Public and Deputy Public Administrators are licensed attorneys, although this is not a statutory requirement. The Workgroup has identified that in the event a non-attorney Public or Deputy Public Administrator is appointed by a court, the cost of outside counsel hired to conduct litigation resulting from estate administration would be charged to the estate in addition to the Public or Deputy Public Administrator’s fees.

The Workgroup has therefore concluded that having a non-attorney serve as Public or Deputy Public Administrator may not result in cost savings to estates.

### **Standardized Public Administrator/Deputy Public Administrator Report**

As noted in the 2017 Public Administrator Audit, prior to 1991, statutes governing the public administrator required certain information to be included in the annual reports, such as:

- The number of estates in process or closed;
- The total value of the estates; and
- The total fees paid to the public administrator for services rendered.

When the public administrator statutes were amended in 1991, these specific requirements were removed.

The level of detail to be included in a standard Public Administrator’s Annual Report was discussed at length during every Workgroup meeting, and encompassed a large portion of the Subcommittee’s work. Several drafts were circulated for analysis and discussion.

***Additional Response to Recommendation 2(A)---requiring additional information from the P.A. in the annual report.***

Although the Workgroup agreed upon the final draft for ~~the a~~ recommended standard ~~form~~ Public Administrator's Annual Report, attached at the end of this report, there was significant discussion as to the overall benefit in requiring this level of detail when considering the additional time, efforts, and costs imposed on the Public Administrator's offices associated with providing such information, and the possibility that the additional cost involved in preparing the report may be passed through to estates.

The Workgroup reached out to the Public Administrator group (referenced above) for feedback regarding the anticipated impact of requiring the additional detail in the proposed Annual Report form. The responses consistently showed that requiring the additional information ~~will would~~ require significantly more staff time to gather this information and prepare the report, thereby increasing fees and out-of-pocket costs. This financial burden must be considered ~~because since~~ many Public Administrators already ~~frequently~~ lose significant ~~amounts of money fees~~ on ~~many~~ public administrator cases, ~~and, therefore,~~ ~~I~~ these new requirements should not be so ~~great burdensome~~ that the Public Administrators will not wish to continue serving in such capacity.

The Workgroup determined that it is important to balance these additional financial burdens on Public Administrators and potential additional costs to estates with the anticipated benefit provided to the Courts and the community by imposing additional informational requirements. The Workgroup believes the proposed Form achieves an appropriate balance of these considerations.

There are three parts to the final recommended draft of the Public Administrator's Annual Report:

- 1) The Caption page with a summary of the income and fees;
- 2) The Details page which is a spreadsheet for reporting the details of each case; and
- 3) The Judicial Review page for judicial officers to sign upon completing their review of the annual report and meeting with their district's Public Administrator.

***Workgroup Response to Audit Recommendation 2(C) ~~)- court meetings with the P.A.~~***

~~In addition to the~~ The appointing court ~~meeting will meet~~ with the Public Administrator annually to review the Public Administrator's annual report, ~~court policies, and procedures,~~ and any other issues impacting the Public Administrator as recommended in ~~the~~ Section #2.c. of the proposed *Guidelines for the Operations of the Offices of the Public Administrators of the State of Colorado*, ~~-. In addition,~~ the Branch will utilize existing data fields from its case management system, along with the proposed standardized annual report, for collecting and tracking key information related to the Public Administrator's performance.

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***Workgroup Response to Audit Recommendation 2(D) ~~1~~ court oversight and review of P.A. functions.***

The Branch will utilize the information obtained in all parts of Audit Recommendation 2 for assessing the performance of the Public Administrators and their Deputies and in determining if the function is achieving its purpose.

**IV. AUDIT RECOMMENDATION 4:**

~~IV.~~

This recommendation was directed to the Department of the Treasury, not the Judicial Branch.

**V. AUDIT RECOMMENDATION 5:**

The Judicial Branch should ensure that undistributed funds from decedents' estates are handled in accordance with statute by:

**A.** Working with the Department of the Treasury to provide guidance and training to Public Administrators on the distinction between decedents' funds and other unclaimed property, and the methods for transferring undistributed funds from decedents' estates to the Department of the Treasury and reporting these transfers to the Attorney General's Office.

**B.** Working with Public Administrators and the Department of the Treasury to determine if there are additional decedents' funds that have been improperly deposited into the Unclaimed Property Fund and correcting any errors identified.

***Workgroup Response to Audit Recommendation 5(A) ~~1~~ reporting escheats to the Department of Treasury.***

The State Court Administrator's Office has created a *Public Administrator's Guide for Reporting Escheats to the Department of the Treasury*, which includes statutory references for reporting such transfers to the Attorney General's Office. The Guide will be distributed to all public and deputy public administrators and will be posted on the Judicial Branch's website.

***Workgroup Response Audit Recommendation 5(B) ~~1~~ identifying improperly deposited estate funds with the Department of Treasury.***

The State Court Administrator's Office contacted Mr. Ryan Parsell, Deputy Treasurer, who confirmed that their agency searched their records from the past 20 years to identify funds that may have been handled as unclaimed property rather than escheats (undistributed funds from decedents' estates). He reported that he was confident that their search was thorough and complete, and that all such funds had been identified. With that being said, Mr. Parsell was willing to research any escheats found by SCAO to ensure they, too, had been properly processed.

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In reviewing several Public Administrator Annual Reports, SCAO found three separate escheats consisting of funds that were transferred to the Department of the Treasury between November 2008 and April 2012. SCAO contacted the Office of the State Auditors and asked whether these three escheats were part of their audit test work, and the Auditors confirmed these escheats were not included in the audit.

SCAO provided the three escheats to Mr. Parsell. The Department of the Treasury conducted a search of these particular escheats and found that their agency had properly processed them as undistributed funds from decedents' estates.

This issue has been determined as being sufficiently explored and requires no further action.

## **VI. SPECIFIC INFORMATION RELATING TO THE PUBLIC ADMINISTRATOR:**

**Comment [rh9]:** Would it make more sense for this overview to be at the beginning and then to get into the specific responses to the audit?

The position of the public administrator (PA) is governed by C.R.S. §§15-12-619 ~~to through~~ 623. The Chief Judge for any judicial district may appoint a public administrator, but as of this writing ~~7 seven of the 22~~ Colorado's 22 judicial districts have not appointed one. A list of the current public administrators is attached.

### ***A. What is a PA and what does he/she do?***

When a PA is appointed to serve in the Judicial District, any district court in the Judicial District may appoint the PA to handle decedent's estates, conservatorships, and trusts, ~~wherein when~~ there is no other available or appropriate person with statutory priority to handle such matters ~~-(C.R.S. §§§15-12-619 and -620)~~. A PA must be a "qualified elector over twenty-one years of age and shall be a resident of or maintain a principal place of business in the judicial district in which the appointee is to act as public administrator." A PA is not an employee of either the ~~state State~~ of Colorado or the judicial district in which he/ or she is appointed ~~-(C.R.S. §15-12-619(1))~~. PAs are ~~usually typically~~ attorneys, but that is not a statutory requirement.

The PA can be appointed by a court ~~as in~~ any of the following ~~types of fiduciaries capacities~~: personal representative ~~§[C.R.S. §15-12-621(1) and (2)]~~, special administrator ~~§[C.R.S. §15-12-621(9)]~~, trustee ~~§[C.R.S. §15-12-622(1)]~~, or conservator ~~(includes including special conservator) §[C.R.S. §15-12-622(1)]~~. The PA also handles ~~statutory "small" small~~ estates, as defined by C.R.S. §15-12-1201, which are ~~those~~ valued at less than \$60,000.00 (twice the exempt property allowances set forth in C.R.S. §15-11-403, as adjusted by C.R.S. §15-10-112 COLA adjustments), and contain no real estate. In 2017, and again in 2018, a "small" estate is one valued at ~~-\$66,000.00~~ or less.

In decedent's cases, the PA is statutorily required to step in to preserve and protect estates of decedents in certain circumstances, even though the court has not yet appointed the PA as personal representative of that estate. These circumstances are governed by C.R.S. § 15-12-620(1) and involve cases in which a person has died leaving property requiring protection, but no heir, devisee or nominated personal representative can be located. The PA must step in and "take such measures as are reasonably necessary to protect and secure the decedent's property." The PA "shall act as soon as the public administrator receives notice of the decedent's death. The public administrator shall continue to protect the decedent's property until the administration of the decedent's estate is granted to a person or entity by the court of proper jurisdiction or until the public administrator is presented with a properly executed affidavit pursuant to §15-12-1201." [C.R.S. § 15-12-620(2)]-

Comment [rh10]: Statutory reference?

***B. How do PAs become aware of and get involved in these cases and get involved in them?***

PA cases originate from multiple ~~different~~ sources, but they can be grouped into two general categories: 1) those that originate directly from the supervising court, and 2) those that do not.

Category #1 - Court Initiated Appointments or Referrals

Court initiated cases can include the following:

1. Investigative – In both conservatorships and decedent's estates, the Court can appoint the PA to investigate and report on the status or propriety of another fiduciary's management of an estate's finances. This is often done when either an interested party or the court itself has raised concerns about such management.
2. Litigious cases – The PA can be appointed in cases where the interested parties are in disagreement as to the administration of the estate or the propriety of a particular person acting as the fiduciary and the Court needs a neutral fiduciary to move the estate administration forward while the parties work out their differences.
3. Emergencies - The Court can appoint the PA in emergencies to investigate, marshal and/or freeze the assets of an estate to stop or prevent theft or other misconduct.
4. Referrals – Parties in estate cases ~~frequently appear at Court and have no idea what they need to do~~ often unaware of how to move administration of an estate administration forward. The Court ~~will often~~ may refer them to the PA for assistance in determining what needs to be done next. Often, the PA provides such direction at no charge to the parties and does not become involved in the case, although occasionally, the PA may become appointed in that case upon agreement of the parties or subsequent order of the court.

Comment [rh11]: This seems misleading, as it implies that once the parties work out their differences, the PA is removed one of the parties is appointed instead. How often does that truly happen?

## Category #2 - Cases Referred from Other Sources

Referral-Referred cases can include the following:

1. Department of Human Services (DHS) Referrals – C.R.S. §15-12-622(1) provides that the county DHS “may refer any resident of that county, or any nonresident located in that county, to that county’s public administrator for appropriate protective proceedings if such department determines that such person meets the standards required for court protective action”.
2. Other persons or entities that have an interest or concern regarding a person in need of protection or an estate may request the appointment of a PA as a personal representative, special administrator, conservator or other fiduciary.
3. When a person dies leaving personal property in any house, residence, apartment, or hotel, and there is no known heir residing in Colorado or a nominated PR in a facially valid Will, the case must be referred to the PA to preserve the Estate pursuant to C.R.S. §15-12-620(4). The PA must step in to protect the property and will proceed pursuant to the other requirements of C.R.S. §15-12-620(1) and (2).
4. The PA may be referred cases by any law enforcement agency, coroner, or other public agency at any time they believe that property of a decedent located within their jurisdiction is not properly secured or protected. [C.R.S. §15-12-620(4)].

Comment [rh12]: What is this trying to say?

### **C. How are PAs compensated?**

The PA is paid directly from the estates that they administer. They do not receive public funds. Often, the estates have insufficient or no funds that can be used to pay a PA’s fees. In such cases, the PA is not compensated for the work that he or she and his or her staff performed on the case. PAs may only charge “fees and costs that are reasonable and proper for similar services in the community.” PAs must maintain “detailed time records for all charged services” and the PA “shall attempt to minimize fees while providing quality fiduciary, administrative, and legal services to all assigned estates.” The PA may charge for the “services of attorneys, paralegals, bookkeepers, certified public accountants, investigators, tax counsel or any other professional or nonprofessional who provides necessary services which further the cost-effective administration of the estates.” A PA who is a member of a law firm may use the services of his or her law firm to assist him or her in the performance of his or her duties. All fees of the PA are subject to the review of the appointing court. (C.R.S. §15-12-623). Some PAs charge reduced rates for smaller cases or for cases referred by the department Department of human-Human servicesServices.

Comment [rh13]: Statutory reference?

Comment [rh14]: Statutory reference?

Comment [rh15]: Statutory reference?

Comment [rh16]: Statutory reference?

PAs are often called upon to perform various services for which they receive no compensation. These include:

1. Working with the Department of Human Services to authorize the transfer and burial of indigent persons.
2. Collecting the belongings of indigent persons and arranging for the transfer of those belongings to heirs.
3. Fielding inquiries from numerous sources including hotels, hospitals, landlords, courts, etc., to determine whether or not the PA's involvement is necessary or appropriate in a particular case. Some PAs spends dozens if not hundreds of hours each year fielding such inquiries and providing direction to such persons, ~~which services provide~~ providing a valuable benefit to the community.

#### ***D. What types of situations do PAs encounter?***

PAs are often called upon to deal with the following types of situations and persons:

1. Abandoned or dilapidated real and personal properties.
2. Cases in which a person died in a home but was not discovered for a significant period of time, resulting in bio-hazardous conditions.
3. Real properties that were occupied by persons —without plumbing, water, heat, or other essential services, resulting in extremely unsanitary conditions.
4. Real properties that are infested with insects and rodents, including bedbugs, and require professional extermination in order to render them safe for the PA and his or her staff to access for purposes of identifying interested parties, heirs, devisees, and to locate information on property which may be owned by the decedent or protected person.
5. Situations involving acts or threats of violence against the PA and or his or her staff. Some PAs incur significant cost to implement security measures for the protection of the PA and his/her employees.

#### ***E. What type of oversight are PAs subject to?***

The probate code requires that all PAs do the following:

1. File an Annual Report with the appointing Court on March 1 of each year “concerning the administration of public administrator cases during the previous calendar year.” [C.R.S. § 15-12-623(2)-] ]
2. All cases in which a PA has been appointed as a personal representative must be closed ~~in~~ with a formal hearing in accordance with C.R.S. §15-12-

1001. This requires the filing of inventories, accountings, and, if requested, all documentation supporting all receipts and disbursements reflected on the accounting pursuant to the requirements governing all personal representatives set forth in the ~~probate~~ Probate Code.

3. All fees of a PA are subject to review by the supervising court.
4. All ~~of these are in addition to all~~ of the other requirements imposed upon fiduciaries generally by the Probate Code.

**F. What types of resources or materials do PAs need to do their jobs and what types of other services do they provide?**

Many PAs keep the following materials, types of staff, and other resources, which are paid for by the PAs and/or their firms and the costs of which are borne by the PA as an overhead cost:

1. Protective gear and special clothing for the safety of staff when entering properties infested with insects, rodents, or contaminants, ~~;~~ or which contain bio-hazards or other hazardous materials, including: suits, booties, gloves, face masks, etc.
2. Camera equipment for preparation of photographic inventories.
3. The PA and his or her staff often use their own vehicles to transport personal belongings either to storage facilities or the PA's office, when the hiring of professional movers is unnecessary.
4. Materials and/or equipment, ~~;~~ such as computer programs, ~~etc.~~, used in the preparation of inventories and tracking of assets.
5. Materials for the extermination of bedbugs on personal belongings when such belongings are brought back to the PA's office or storage facilities.
6. Most PAs utilize storage space within their offices and leased storage ~~units~~/facilities outside of the office where the belongings of decedents and protected persons are stored pending resolution of their estates. Unless individual units for particular estates are justified given the circumstances, the costs for these ~~spaces~~/units are borne by the PA as an overhead cost and are not charged to the individual estates.
7. Some PAs have staff who perform intake work for ~~the PA~~ that is not compensated by the estate due to the lack of assets, resulting in the PA personally incurring payment for the employee's time as an overhead cost ~~without reimbursement from the estate~~.
8. Many PAs are willing to advance costs (but are not legally required to do so) to estates that they administer for such things as mortgage payments, insurance, utilities, safe deposit box drilling fees, etc. ~~on illiquid estates~~, often for months or years before they receive reimbursement, and

sometimes without reimbursement if assets are not eventually discovered or recovered. Many PAs do not charge interest on such advances.