

# User's Manual for Conservators in Colorado

This User's Manual for Conservators in Colorado is a collaborative effort of the staff of the State Court Administrator's Office, the Protective Proceedings Task Force and members of the Colorado Bar Association.

This manual is intended to assist the newly appointed Conservator and to identify your responsibilities and to introduce you to important Conservatorship issues. This is not a comprehensive manual to address every situation as we have designed this manual to highlight many of the common situations that one may need to address as a Conservator. You are expected to familiarize yourself with the provisions of the Colorado Uniform Guardianship and Protective Proceedings Act, §15-14-101, C.R.S. through §15-14-433, C.R.S. that relate to protective proceedings for minors and adults, the Colorado Rules of Probate Procedure and applicable case law. Changes in the law may have occurred since this manual was published. If you have questions on how to proceed, consult your attorney before acting. By obtaining an attorney's advice before you act, you may avoid more costly legal services later.

It is highly recommend that appropriate professionals be consulted, such as attorneys, financial advisors, and accountants. Even if you do not have an attorney, you are bound by the same rules and procedures as if you did. The cost for professional assistance may be assessed to the conservatorship estate as long as the expense was incurred in the collection, care, administration and protection of the estate.

This work is produced as a public service, and copies of these materials may be reprinted, with acknowledgment, without violation of applicable copyright laws. The User's Manual for Conservators is also available on the Colorado Judicial Branch website at [www.courts.state.co.us](http://www.courts.state.co.us).

We would appreciate your feedback. If you have any comments or suggestions, or if you require additional information, please feel free to contact: [cpr@judicial.state.co.us](mailto:cpr@judicial.state.co.us)

# **Conservator's Manual**

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You may wish to maintain your personal information in this manual, as this may be a great place for you to maintain financial documentation, receipts, etc.

## Definitions

<b>Conservator:</b>	A person at least 21 years of age who has been appointed by a court to manage the estate (financial affairs) of a Protected Person or a minor child (under the age of 18).
<b>Fiduciary:</b>	A person or institution who manages money or property of another and who must exercise a standard of care in such management activity imposed by law.
<b>Financial Plan:</b>	Information to the Court that outlines how the Protected Person's assets and income will be invested or applied for his or her best interests.
<b>Guardian:</b>	A person at least 21 years of age who has qualified to have the care and management of an incapacitated person or a minor child (under the age of 18).
<b>Incapacitated Person:</b>	An adult person who lacks sufficient understanding or capacity to make or communicate responsible decisions concerning that person's physical health, safety, or self-care, even with appropriate and reasonably available technological assistance.
<b>Interested Persons:</b>	Persons identified by Colorado Law who must be given notice of a Conservatorship proceeding and/or Guardianship proceeding. This can be spouse, adult children, and other family members.
<b>Letters:</b>	A formal document issued by the Probate Court appointing one as a Guardian and/or Conservator.
<b>Minor:</b>	An unemancipated individual who has not attained 18 years of age.
<b>Petitioner:</b>	A person who files a Petition for the Appointment of a Conservator/Guardian.
<b>Protected Person:</b>	A person for whom a Conservator has been appointed.
<b>Prudent Investor Rule:</b>	A standard that a Conservator shall exercise when investing and managing the Conservator's assets. The Conservator shall exercise reasonable care and skill when making investment and management decisions.
<b>Respondent:</b>	A person who is the subject of a Guardianship and/or Conservatorship proceeding, prior to findings of incapacity.
<b>Ward:</b>	A person for whom a Guardian has been appointed.

# Information Regarding Your Appointment as a Conservator & Duties as the Conservator of the Protected Person

- ◆ **Manage and invest assets appropriately.**

- ◆ Make safe, not risky, investments.
- ◆ Remember you are taking care of someone else's property.
- ◆ Seek professional advice regarding investments as a fiduciary.
- ◆ Maintain existing estate plan, such as beneficiary designations and payable on death accounts.
- ◆ Consider notifying credit reporting bureaus that this Conservatorship has been established and providing copies of the letters.

- ◆ **Locate, collect and protect all assets.**

- ◆ You must keep the estate's money and property separate from anyone else's, especially your own.
- ◆ **Do not deposit the Protected Person's money into your own account.**
- ◆ When you open a bank account for the estate, the name on the account must be as follows:

\_\_\_\_\_ *as Conservator for*  
*(Name of Conservator)*

\_\_\_\_\_ *a Protected Person*  
*(Name of protected person)*

Each bank may have its own way to title the account, but in any event the account title must reflect the Conservator/Protected Person relationship. Provide a certified copy of Letters of Conservatorship and Order of Appointment to each financial institution.

- ◆ If real estate property exists, you will need to record a certified copy of Letters of Conservatorship in the county where the property is located. Consult with your attorney about recording letters in other circumstances.
  - ◆ Notify the post office, creditors, utility companies, etc. if you want mail sent to your address.
  - ◆ Review will and other arrangements in order to preserve the estate plan.
  - ◆ Evaluate and consider application for public benefits.
- ◆ **Insurance Matters**
    - ◆ Verify coverage for health, property, auto and life insurance. Provide certified copy of Letters if necessary.
    - ◆ Confirm that premium payments are current.
    - ◆ Obtain coverage if policies have lapsed.

- ◆ **Tax Matters**
  - ◆ Make sure income and property taxes are current, including estimated quarterly tax payments.
  - ◆ Plan for federal and state tax payments.
  - ◆ Consider consulting a Certified Public Accountant (CPA).
  - ◆ If you are a conservator for a minor, remember that minors may be required to file tax returns.
  - ◆ Plan ahead if you will require court authority to make withdrawals necessary to meet the tax payment. Allow 10 business days for the court to consider your request.
  
- ◆ **Develop a Financial Plan for court approval.**
  - ◆ Identify income that will be received. This may include; Social Security benefits, pension, Income tax refunds, etc.
  - ◆ Identify expenditures that must be paid. This may include; rent, home maintenance, cost of care, medications, bond and insurance premiums, taxes, etc.
  - ◆ Verify appropriateness of investments and accounts with a professional.
  - ◆ Take in to account the protected person's estate plan.
  - ◆ Planning finances in terms of the anticipated duration of the conservatorship. A link to an Actuarial Table is available on the resources page.
  
- ◆ **Maintain complete records of every financial transaction.**
  - ◆ You may wish to establish a manual checkbook or a spreadsheet on EXCEL, Quicken or similar financial software that reflects all income and expenditures with the estate.
  - ◆ Maintain all supporting documentation for the duration of the Conservatorship.
  - ◆ Supporting documentation includes bank statements and check copies, credit card statement and receipts, sales receipts, and other such forms of proof that support your reports. The Court and Interested Persons can request documentation from the conservator at any time.
  - ◆ Subject to review by the court, you may be entitled to reasonable compensation, which may have tax consequences to you and/or the Protected Person.
  
- ◆ **Complete and file with the Court required reports and plans.**
  - ◆ File the initial Inventory with Financial Plan. See the order of appointment for the due dates of filing.
  - ◆ File an amendment to the Inventory with Financial Plan whenever a substantial change (a significant deviation from the original financial plan) of circumstances occurs.
  - ◆ File Conservator's Reports as ordered. Check the order of appointment for the due dates.

# Frequently Asked Questions

The following are frequently asked questions to assist you with your appointment as a Conservator. Consult with your attorney if you have questions that are not addressed here.

## **What is the cost to obtain certified copies of Letters and Orders from the Clerk's Office?**

The number of Letters required depends on the circumstances. The cost is \$20.75 a piece.

## **What if the Protected Person owns real estate?**

Record Letters at the clerk and recorder's office in the county where the property is located. Consult with your attorney about recording letters in other circumstances.

## **What is the difference between a guardian and conservator?**

Guardian: Assists with personal affairs, such as housing and health care.

Conservator: Assists with the financial affairs.

## **What happens to joint accounts?**

It depends on the nature or the reason for the account. For example: if the account was established as a matter of convenience so the co-owner can write checks for the protected person, most likely the account should be transferred to the conservatorship. If it was established for estate planning purposes, no changes may be necessary.

## **What about business situations?**

Call a lawyer.

## **When I was appointed I was handed a stack/notebook full of paperwork. Why?**

The law requires that you file reports with the Court. This User's Manual is designed to help guide and assist you with the process and provide you with instructions and forms for the reporting requirements. Refer to the Court's order for the dates that all reports are due.

## **Where can I get more of these blank reporting forms?**

All forms are available, free of charge, in the Self-Help section on the Colorado Judicial Department's website, [www.courts.state.co.us](http://www.courts.state.co.us). You may also get blank forms at the clerk's office for a charge of .75 cents per page.

**I need more copies of my proof of appointment. Where can I get them and what is the cost?**

You may obtain copies at the clerk's office for a charge of .75 cents per page. If you need any of the documents certified, there is an additional charge of \$20.00 per document.

**I need help completing all these reports. Can the clerks help me?**

Court clerks are not allowed to give legal advice or assist with the completion of forms. If you need assistance, it is highly advised that you seek the advice of a lawyer.

**Am I personally liable for the protected person's expenses?**

Not unless you agree to assume the liability by signing in your personal capacity rather than as conservator. Always disclose your role as conservator.

**The Protected Person lives with me. May I charge rent?**

You may charge a reasonable amount for rent and other living expenses. These expenditures should be identified in the financial plan that you submit to the Court for approval. There may be tax consequences to such payments.

**How do I make the money last?**

You are strongly encouraged to consult with your attorney and/or a financial advisor. There may be asset protection strategies available to you.

**What do I do if and when the money runs out?**

There may be public benefits available. You may want to consider selling or borrowing against assets. Review the order of appointment to determine if court approval is required. It may be appropriate to terminate the conservatorship.

**My siblings and I are arguing about the way I'm managing the money. What can I do?**

Your siblings have the right to take any of their concerns to the court, however you as the conservator have the power to manage the assets and carry out the approved financial plan.

**What happens when the protected person dies?**

Notify the court by filing a verified notice of death (JDF 853). Within 60 days, you must file a petition to terminate the conservatorship and schedule of distribution (JDF 888). After death, the conservator may only take the steps necessary to protect the assets of the estate and pay the funeral expenses.

**What if the protected person gets well and doesn't need my help any longer?**

You or the protected person may file a petition to terminate the conservatorship. Generally, a hearing will be required with the protected person present, unless excused for good cause.

**What would happen if I didn't file the required reports, plans or didn't comply with court orders?**

The court can impose appropriate sanctions, including removal, fines, contempt of court, arrest, and imprisonment.

# Resources

AARP in Colorado	<a href="http://www.aarp.org/states/co/">http://www.aarp.org/states/co/</a> 1-888 687-2277
ARC of Colorado	<a href="http://www.thearcofco.org/">http://www.thearcofco.org/</a>
ARC of the United States	<a href="http://www.thearc.org/NetCommunity/Page.aspx?pid=183">http://www.thearc.org/NetCommunity/Page.aspx?pid=183</a>
Actuarial Table	<a href="http://www.ssa.gov/OACT/STATS/table4c6.html">www.ssa.gov/OACT/STATS/table4c6.html</a>
Alliance Colorado (Community Center Boards)	<a href="http://alliancecolorado.org/">http://alliancecolorado.org/</a>
Alzheimer's Association (Metro Denver)	<a href="http://www.alzco.org">www.alzco.org</a> 303 813-1669
Alzheimer's Association	<a href="http://www.alz.org">www.alz.org</a> 1-800-272-3900
Administration on Aging	<a href="http://www.aoa.gov">www.aoa.gov</a>
Americans with Disabilities Act	<a href="http://www.ada.gov">www.ada.gov</a>
Autism Society of America, Colorado Chapter	<a href="http://www.autismcolorado.org/">http://www.autismcolorado.org/</a>
Benefits Check Up Colorado	<a href="http://www.benefitscheckup.com">www.benefitscheckup.com</a> 1-866-550-2752
Brain Injury Association of Colorado	<a href="http://www.biacolorado.org/">http://www.biacolorado.org/</a>
Cerebral Palsy of Colorado	<a href="http://www.cpcoco.org/">http://www.cpcoco.org/</a>
Colorado Bar Association	<a href="http://www.cobar.org">www.cobar.org</a> 303 860-1115
Colorado Cross-Disability Coalition	<a href="http://www.ccdconline.org/">http://www.ccdconline.org/</a>
Colorado Dept of Public Health and Environment	<a href="http://www.cdphe.state.co.us">www.cdphe.state.co.us</a> 1-800-866-7689 – within Colorado only
Colorado Developmental Disabilities Council	<a href="http://www.coddc.org/">http://www.coddc.org/</a>
Colorado Division of Insurance	<a href="http://www.dora.state.co.us/insurance">www.dora.state.co.us/insurance</a> 303-894-7490 in the Denver-Metro area 1-800-930-3745 from other parts of Colorado.
Colorado Fund for People with Disabilities	<a href="http://www.cfpdtrust.org/">http://www.cfpdtrust.org/</a>
Colorado Judicial Branch	<a href="http://www.courts.state.co.us">www.courts.state.co.us</a>
Community House Services, In	303-831-4046

Consortium for Citizens with Disabilities	<a href="http://www.c-c-d.org/">http://www.c-c-d.org/</a>
County Department of Social Services	<a href="http://www.cdhs.state.co.us/servicebycounty.htm">www.cdhs.state.co.us/servicebycounty.htm</a>
Denver Regional Council of Governments	<a href="http://www.drcog.org">www.drcog.org</a> 303 455-1000
Division of Aging and Adult Services	<a href="http://www.cdhs.state.co.us/aas/">http://www.cdhs.state.co.us/aas/</a> 1-888-866-4243 – within Colorado only
Elder Care Locator	<a href="http://www.eldercare.gov/Eldercare/Public/Home.asp">http://www.eldercare.gov/Eldercare/Public/Home.asp</a>
Elder Law General Aging Smart Podcast	<a href="http://www.elderlawanswers.com/PodCast/PodCast.asp">http://www.elderlawanswers.com/PodCast/PodCast.asp</a>
Equal Employment Opportunity Commission	<a href="http://www.eeoc.gov">www.eeoc.gov</a> 1-800-669-4000
Guardianship Alliance of Colorado	<a href="http://www.guardianshipallianceofcolorado.org">www.guardianshipallianceofcolorado.org</a> 303 423-2898
Harrison Memorial Animal Hospital	<a href="http://cvmf.org/displaycommon.cfm?an=1&amp;subarticlenbr=27">http://cvmf.org/displaycommon.cfm?an=1&amp;subarticlenbr=27</a>
Healthy Aging for Older Adults	<a href="http://www.cdc.gov/aging/">www.cdc.gov/aging/</a> 1-800-311-3435
Hero Alliance People with Disabilities Seeking Home Ownership	<a href="http://www.heroalliance.org/">http://www.heroalliance.org/</a>
National Guardianship Association	<a href="http://www.guardianship.org">www.guardianship.org</a>
Legal Center for People with Disabilities & Older People	<a href="http://www.thelegalcenter.org/">http://www.thelegalcenter.org/</a>
Medicare	<a href="http://www.medicare.gov">www.medicare.gov</a> 1-800-Medicare
Mile High Down Syndrome Association	<a href="http://www.mhdsa.org/">http://www.mhdsa.org/</a>
Senior Housing Options	<a href="http://www.seniorhousingoptions.org">www.seniorhousingoptions.org</a> 303 595-4464
Social Security Administration	<a href="http://www.socialsecurity.gov">www.socialsecurity.gov</a> 1-800-772-1213
Social Security Office – Denver Region	<a href="http://www.socialsecurity.gov/denver/">http://www.socialsecurity.gov/denver/</a>
The Colorado Consumer Line	<a href="http://www.ago.state.co.us">www.ago.state.co.us</a>
Attorney General's Office	1-800-222-4444
United Way	<a href="http://national.unitedway.org/">http://national.unitedway.org/</a>

## PREPARING TO FILE YOUR REPORT

The following is a checklist designed to help you prepare for the filing of your Inventory with Financial Plan and Conservator's Report.

To facilitate electronic reproduction of documents please type or legibly print your report in black ink.

- Does your report have the case number, the Protected Person's name and your address filled in at the top?
  
- If you or the Protected Person moved, did you indicate the address change?
  
- Did you sign the report? If there are co-conservators, did they all sign the report?
  
- Did you keep copies of bank statements and other financial records for possible future court review?
  
- Did you provide copies of the report to all interested persons as identified in the order of appointment and complete the certificate of service indicating that you did so?

# CONSERVATOR'S WORKSHEET

## IMPORTANT DATES TO REMEMBER

*Inventory with Financial Plan* (JDF 882) due on: \_\_\_\_\_

*Conservator's Report* (JDF 885) due on: \_\_\_\_\_

The following Interested Persons (identified in the Order of Appointment) must be provided copies of the above reports. The *Certificate of Service* on the reports must be completed prior to filing indicating that you have done so.

_____	_____	_____
_____	_____	_____
_____	_____	_____

## FINANCIAL INSTITUTION INFORMATION

Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone #: \_\_\_\_\_

Name: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_ Phone #: \_\_\_\_\_

## MEDICAL INFORMATION

DR./PA./RN. Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

## PHARMACY INFORMATION

Pharmacy Name: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

## RESIDENCE INFORMATION

Name of Facility: \_\_\_\_\_ Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

## INSURANCE INFORMATION

Policy Type: \_\_\_\_\_ Policy Number: \_\_\_\_\_

Agent: \_\_\_\_\_ Phone #: \_\_\_\_\_

Address: \_\_\_\_\_

## OTHER CONTACT INFORMATION

\_\_\_\_\_

