

AMENDED IN SENATE JUNE 10, 2013

AMENDED IN ASSEMBLY APRIL 22, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1339**

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**Introduced by Assembly Member Maienschein**

February 22, 2013

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An act to amend Sections 1510, 1821, 2250, and 2643 of, and to add Sections 2614.7 and 2643.1 to, the Probate Code, relating to professional fiduciaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 1339, as amended, Maienschein. Professional fiduciaries: guardians and conservators.

Existing law provides that a relative or other person on behalf of a minor, or a minor if he or she is 12 years of age or older, may file a petition for the appointment of a guardian of the person or estate of the minor. Existing law also provides that certain persons may file a petition for the appointment of a conservator. Existing law provides that on or after the filing of a petition for appointment of a guardian or conservator, a person entitled to petition for the appointment of a guardian or conservator may file a petition for the appointment of a temporary guardian or temporary conservator, as specified. Under existing law, when a petition to appoint a conservator or a temporary conservator is filed, and the petitioner is a professional fiduciary, as defined, the petition must include specified additional information, including the petitioner's license information and a statement explaining who engaged the petitioner or how the petitioner was engaged to file the petition for

appointment of a conservator and what prior relationship the petitioner had with the proposed conservatee or the proposed conservatee's family or friends.

This bill would require that when a petition to appoint a conservator or a temporary conservator is filed, and the petitioner *or proposed conservator* is a professional fiduciary, as defined, the petition also include the petitioner's *or proposed conservator's* proposed hourly fee schedule or another statement of the petitioner's *or proposed conservator's* proposed compensation from the estate of the proposed conservatee for services performed.

This bill would also require, when a petition to appoint a guardian or temporary guardian is filed, and the petitioner *or proposed guardian* is a professional fiduciary, as defined, the petition to include the same additional information as when a professional fiduciary files a petition to appoint a conservator or a temporary conservator.

Existing law requires, within 90 days of a guardian's or conservator's appointment, the guardian or conservator to file an inventory and appraisal.

This bill would require the guardian or conservator, if he or she is a professional fiduciary, as defined, to file concurrently with the inventory and appraisal a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed.

Existing law permits the court, on petition by the guardian or conservator, to authorize periodic payments on account to the guardian or conservator for the services rendered by those persons during the period covered by each payment.

This bill would permit the court, on petition by a guardian or conservator who is a professional fiduciary, as defined, to authorize periodic payments on account only if the guardian or conservator filed a proposed hourly fee schedule or another statement of his or her proposed compensation from the estate of the ward or conservatee for services performed with the inventory and appraisal and only after addressing all objections to the petition. This bill would also provide that the authorization for periodic payments to a guardian or conservator who is a professional fiduciary, as defined, shall terminate as of the due date of the next succeeding accounting.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1510 of the Probate Code is amended to  
2 read:

3 1510. (a) A relative or other person on behalf of the minor, or  
4 the minor if 12 years of age or older, may file a petition for the  
5 appointment of a guardian of the minor. A relative may file a  
6 petition for the appointment of a guardian under this section  
7 regardless of the relative's immigration status.

8 (b) The petition shall request that a guardian of the person or  
9 estate of the minor, or both, be appointed, shall specify the name  
10 and address of the proposed guardian and the name and date of  
11 birth of the proposed ward, and shall state that the appointment is  
12 necessary or convenient.

13 (c) The petition shall set forth, so far as is known to the  
14 petitioner, the names and addresses of all of the following:

15 (1) The parents of the proposed ward.

16 (2) The person having legal custody of the proposed ward and,  
17 if that person does not have the care of the proposed ward, the  
18 person having the care of the proposed ward.

19 (3) The relatives of the proposed ward within the second degree.

20 (4) In the case of a guardianship of the estate, the spouse of the  
21 proposed ward.

22 (5) Any person nominated as guardian for the proposed ward  
23 under Section 1500 or 1501.

24 (6) In the case of a guardianship of the person involving an  
25 Indian child, any Indian custodian and the Indian child's tribe.

26 (d) If the petitioner *or proposed guardian* is a professional  
27 fiduciary, as described in Section 2340, who is required to be  
28 licensed under the Professional Fiduciaries Act (Chapter 6  
29 (commencing with Section 6500) of Division 3 of the Business  
30 and Professions Code), the petition shall include the following:

31 (1) The petitioner's *or proposed guardian's* proposed hourly  
32 fee schedule or another statement of his or her proposed  
33 compensation from the estate of the proposed ward for services  
34 performed as a guardian. The petitioner's *or proposed guardian's*  
35 provision of a proposed hourly fee schedule or another statement  
36 of his or her proposed compensation, as required by this paragraph,  
37 shall not preclude a court from later reducing the petitioner's *or*  
38 *proposed guardian's* fees or other compensation.

1 (2) Unless a petition for appointment of a temporary guardian  
2 that contains the statements required by this paragraph is filed  
3 together with a petition for appointment of a guardian, both of the  
4 following:

5 (A) A statement of the petitioner's *or proposed guardian's*  
6 license information.

7 (B) A statement explaining who engaged the petitioner *or*  
8 *proposed guardian* or how the petitioner *or proposed guardian*  
9 was engaged to file the petition for appointment of a guardian or  
10 to agree to accept the appointment as guardian and what prior  
11 relationship the petitioner *or proposed guardian* had with the  
12 proposed ward or the proposed ward's family or friends.

13 (e) If the proposed ward is a patient in or on leave of absence  
14 from a state institution under the jurisdiction of the State  
15 Department of State Hospitals or the State Department of  
16 Developmental Services and that fact is known to the ~~petitioner,~~  
17 *petitioner or proposed guardian*, the petition shall state that fact  
18 and name the institution.

19 (f) The petition shall state, so far as is known to the ~~petitioner,~~  
20 *petitioner or proposed guardian*, whether or not the proposed  
21 ward is receiving or is entitled to receive benefits from the Veterans  
22 Administration and the estimated amount of the monthly benefit  
23 payable by the Veterans Administration for the proposed ward.

24 (g) If the petitioner *or proposed guardian* has knowledge of  
25 any pending adoption, juvenile court, marriage dissolution,  
26 domestic relations, custody, or other similar proceeding affecting  
27 the proposed ward, the petition shall disclose the pending  
28 proceeding.

29 (h) If the petitioners *or proposed guardians* have accepted or  
30 intend to accept physical care or custody of the child with intent  
31 to adopt, whether formed at the time of placement or formed  
32 subsequent to placement, the petitioners *or proposed guardians*  
33 shall so state in the guardianship petition, whether or not an  
34 adoption petition has been filed.

35 (i) If the proposed ward is or becomes the subject of an adoption  
36 petition, the court shall order the guardianship petition consolidated  
37 with the adoption petition, and the consolidated case shall be heard  
38 and decided in the court in which the adoption is pending.

39 (j) If the proposed ward is or may be an Indian child, the petition  
40 shall state that fact.

1 SEC. 2. Section 1821 of the Probate Code is amended to read:

2 1821. (a) The petition shall request that a conservator be  
3 appointed for the person or estate, or both, shall specify the name,  
4 address, and telephone number of the proposed conservator and  
5 the name, address, and telephone number of the proposed  
6 conservatee, and state the reasons why a conservatorship is  
7 necessary. Unless the petitioner *or proposed conservator* is a bank  
8 or other entity authorized to conduct the business of a trust  
9 company, the petitioner *or proposed conservator* shall also file  
10 supplemental information as to why the appointment of a  
11 conservator is required. The supplemental information to be  
12 submitted shall include a brief statement of facts addressed to each  
13 of the following categories:

14 (1) The inability of the proposed conservatee to properly provide  
15 for his or her needs for physical health, food, clothing, and shelter.

16 (2) The location of the proposed conservatee's residence and  
17 the ability of the proposed conservatee to live in the residence  
18 while under conservatorship.

19 (3) Alternatives to conservatorship considered by the petitioner  
20 *or proposed conservator* and reasons why those alternatives are  
21 not available.

22 (4) Health or social services provided to the proposed  
23 conservatee during the year preceding the filing of the petition,  
24 when the petitioner *or proposed conservator* has information as  
25 to those services.

26 (5) The inability of the proposed conservatee to substantially  
27 manage his or her own financial resources, or to resist fraud or  
28 undue influence.

29 The facts required to address the categories set forth in  
30 paragraphs (1) to (5), inclusive, shall be set forth by the petitioner  
31 ~~when~~ *or proposed conservator* if he or she has knowledge of the  
32 facts or by the declarations or affidavits of other persons having  
33 knowledge of those facts.

34 ~~Where~~

35 *If* any of the categories set forth in paragraphs (1) to (5),  
36 inclusive, are not applicable to the proposed conservatorship, the  
37 petitioner *or proposed conservator* shall so indicate and state on  
38 the supplemental information form the reasons therefor.

39 The Judicial Council shall develop a supplemental information  
40 form for the information required pursuant to paragraphs (1) to

1 (5), inclusive, after consultation with individuals or organizations  
2 approved by the Judicial Council, who represent public  
3 conservators, court investigators, the State Bar, specialists with  
4 experience in performing assessments and coordinating  
5 community-based services, and legal services for the elderly and  
6 disabled.

7 The supplemental information form shall be separate and distinct  
8 from the form for the petition. The supplemental information shall  
9 be confidential and shall be made available only to parties, persons  
10 given notice of the petition who have requested this supplemental  
11 information or who have appeared in the proceedings, their  
12 attorneys, and the court. The court shall have discretion at any  
13 other time to release the supplemental information to other persons  
14 if it would serve the interests of the conservatee. The clerk of the  
15 court shall make provision for limiting disclosure of the  
16 supplemental information exclusively to persons entitled thereto  
17 under this section.

18 (b) The petition shall set forth, so far as they are known to the  
19 ~~petitioner~~, *petitioner or proposed conservator*, the names and  
20 addresses of the spouse or domestic partner, and of the relatives  
21 of the proposed conservatee within the second degree. If no spouse  
22 or domestic partner of the proposed conservatee or relatives of the  
23 proposed conservatee within the second degree are known to the  
24 ~~petitioner~~, *petitioner or proposed conservator*, the petition shall  
25 set forth, so far as they are known to the ~~petitioner~~, *petitioner or*  
26 *proposed conservator*, the names and addresses of the following  
27 persons who, for the purposes of Section 1822, shall all be deemed  
28 to be relatives:

29 (1) A spouse or domestic partner of a predeceased parent of a  
30 proposed conservatee.

31 (2) The children of a predeceased spouse or domestic partner  
32 of a proposed conservatee.

33 (3) The siblings of the proposed conservatee's parents, if any,  
34 but if none, then the natural and adoptive children of the proposed  
35 conservatee's parents' siblings.

36 (4) The natural and adoptive children of the proposed  
37 conservatee's siblings.

38 (c) If the *petitioner or proposed conservator* is a professional  
39 fiduciary, as described in Section 2340, who is required to be  
40 licensed under the Professional Fiduciaries Act (Chapter 6

1 (commencing with Section 6500) of Division 3 of the Business  
2 and Professions Code), the petition shall include the following:

3 (1) The petitioner's *or proposed conservator's* proposed hourly  
4 fee schedule or another statement of his or her proposed  
5 compensation from the estate of the proposed conservatee for  
6 services performed as a conservator. The petitioner's *or proposed*  
7 *conservator's* provision of a proposed hourly fee schedule or  
8 another statement of his or her proposed compensation, as required  
9 by this paragraph, shall not preclude a court from later reducing  
10 the petitioner's *or proposed conservator's* fees or other  
11 compensation.

12 (2) Unless a petition for appointment of a temporary conservator  
13 that contains the statements required by this paragraph is filed  
14 together with a petition for appointment of a conservator, both of  
15 the following:

16 (A) A statement of the petitioner's *or proposed conservator's*  
17 license information.

18 (B) A statement explaining who engaged the petitioner *or*  
19 *proposed conservator* or how the petitioner *or proposed*  
20 *conservator* was engaged to file the petition for appointment of a  
21 conservator or to agree to accept the appointment as conservator  
22 and what prior relationship the petitioner *or proposed conservator*  
23 had with the proposed conservatee or the proposed conservatee's  
24 family or friends.

25 (d) If the petition is filed by a person other than the proposed  
26 conservatee, the petition shall include a declaration of due diligence  
27 showing both of the following:

28 (1) Either the efforts to find the proposed conservatee's relatives  
29 or why it was not feasible to contact any of them.

30 (2) Either the preferences of the proposed conservatee  
31 concerning the appointment of a conservator and the appointment  
32 of the proposed conservator or why it was not feasible to ascertain  
33 those preferences.

34 (e) If the petition is filed by a person other than the proposed  
35 conservatee, the petition shall state whether or not the petitioner  
36 is a creditor or debtor, or the agent of a creditor or debtor, of the  
37 proposed conservatee.

38 (f) If the proposed conservatee is a patient in or on leave of  
39 absence from a state institution under the jurisdiction of the State  
40 Department of State Hospitals or the State Department of

1 Developmental Services and that fact is known to the ~~petitioner,~~  
 2 *petitioner or proposed conservator*, the petition shall state that  
 3 fact and name the institution.

4 (g) The petition shall state, so far as is known to the ~~petitioner,~~  
 5 *petitioner or proposed conservator*, whether or not the proposed  
 6 conservatee is receiving or is entitled to receive benefits from the  
 7 Veterans Administration and the estimated amount of the monthly  
 8 benefit payable by the Veterans Administration for the proposed  
 9 conservatee.

10 (h) The petition may include an application for any order or  
 11 orders authorized under this division, including, but not limited  
 12 to, orders under Chapter 4 (commencing with Section 1870).

13 (i) The petition may include a further statement that the proposed  
 14 conservatee is not willing to attend the hearing on the petition,  
 15 does not wish to contest the establishment of the conservatorship,  
 16 and does not object to the proposed conservator or prefer that  
 17 another person act as conservator.

18 (j) In the case of an allegedly developmentally disabled adult,  
 19 the petition shall set forth the following:

20 (1) The nature and degree of the alleged disability, the specific  
 21 duties and powers requested by or for the limited conservator, and  
 22 the limitations of civil and legal rights requested to be included in  
 23 the court’s order of appointment.

24 (2) Whether or not the proposed limited conservatee is or is  
 25 alleged to be developmentally disabled.

26 Reports submitted pursuant to Section 416.8 of the Health and  
 27 Safety Code meet the requirements of this section, and  
 28 conservatorships filed pursuant to Article 7.5 (commencing with  
 29 Section 416) of Part 1 of Division 1 of the Health and Safety Code  
 30 are exempt from providing the supplemental information required  
 31 by this section, so long as the guidelines adopted by the State  
 32 Department of Developmental Services for regional centers require  
 33 the same information that is required pursuant to this section.

34 SEC. 3. Section 2250 of the Probate Code is amended to read:

35 2250. (a) On or after the filing of a petition for appointment  
 36 of a guardian or conservator, any person entitled to petition for  
 37 appointment of the guardian or conservator may file a petition for  
 38 appointment of:

- 39 (1) A temporary guardian of the person or estate, or both.
- 40 (2) A temporary conservator of the person or estate, or both.

1 (b) The petition shall state facts which establish good cause for  
2 appointment of the temporary guardian or temporary conservator.  
3 The court, upon that petition or other showing as it may require,  
4 may appoint a temporary guardian of the person or estate, or both,  
5 or a temporary conservator of the person or estate, or both, to serve  
6 pending the final determination of the court upon the petition for  
7 the appointment of the guardian or conservator.

8 (c) If the petitioner, *proposed guardian, or proposed conservator*  
9 is a professional fiduciary, as described in Section 2340, who is  
10 required to be licensed under the Professional Fiduciaries Act  
11 (Chapter 6 (commencing with Section 6500) of Division 3 of the  
12 Business and Professions Code), the petition for appointment of  
13 a temporary guardian or temporary conservator shall include the  
14 following:

15 (1) The petitioner's, *proposed guardian's, or proposed*  
16 *conservator's* proposed hourly fee schedule or another statement  
17 of his or her proposed compensation from the estate of the proposed  
18 ward or proposed conservatee for services performed as a guardian  
19 or conservator. The petitioner's, *proposed guardian's, or proposed*  
20 *conservator's* provision of a proposed hourly fee schedule or  
21 another statement of his or her proposed compensation, as required  
22 by this paragraph, shall not preclude a court from later reducing  
23 the petitioner's, *proposed guardian's, or proposed conservator's*  
24 fees or other compensation.

25 (2) Unless a petition for appointment of a guardian or  
26 conservator that contains the statements required by this paragraph  
27 is filed together with a petition for appointment of a temporary  
28 guardian or temporary conservator, both of the following:

29 (A) A statement of the petitioner's, *proposed guardian's, or*  
30 *proposed conservator's* registration or license information.

31 (B) A statement explaining who engaged the petitioner,  
32 *proposed guardian, or proposed conservator* or how the petitioner,  
33 *proposed guardian, or proposed conservator* was engaged to file  
34 the petition for appointment of a temporary guardian or temporary  
35 conservator or to agree to accept the appointment as temporary  
36 guardian or temporary conservator and what prior relationship the  
37 petitioner, *proposed guardian, or proposed conservator* had with  
38 the proposed ward or proposed conservatee or the proposed ward's  
39 or proposed conservatee's family or friends.

1 (d) If the petition is filed by a party other than the proposed  
2 conservatee, the petition shall include a declaration of due diligence  
3 showing both of the following:

4 (1) Either the efforts to find the proposed conservatee's relatives  
5 named in the petition for appointment of a general conservator or  
6 why it was not feasible to contact any of them.

7 (2) Either the preferences of the proposed conservatee  
8 concerning the appointment of a temporary conservator and the  
9 appointment of the proposed temporary conservator or why it was  
10 not feasible to ascertain those preferences.

11 (e) Unless the court for good cause otherwise orders, at least  
12 five court days before the hearing on the petition, notice of the  
13 hearing shall be given as follows:

14 (1) Notice of the hearing shall be personally delivered to the  
15 proposed ward if he or she is 12 years of age or older, to the parent  
16 or parents of the proposed ward, and to any person having a valid  
17 visitation order with the proposed ward that was effective at the  
18 time of the filing of the petition. Notice of the hearing shall not be  
19 delivered to the proposed ward if he or she is under 12 years of  
20 age. In a proceeding for temporary guardianship of the person,  
21 evidence that a custodial parent has died or become incapacitated,  
22 and that the petitioner *or proposed guardian* is the nominee of the  
23 custodial parent, may constitute good cause for the court to order  
24 that this notice not be delivered.

25 (2) Notice of the hearing shall be personally delivered to the  
26 proposed conservatee, and notice of the hearing shall be served  
27 on the persons required to be named in the petition for appointment  
28 of conservator. If the petition states that the petitioner and the  
29 proposed conservator have no prior relationship with the proposed  
30 conservatee and has not been nominated by a family member,  
31 friend, or other person with a relationship to the proposed  
32 conservatee, notice of hearing shall be served on the public  
33 guardian of the county in which the petition is filed.

34 (3) A copy of the petition for temporary appointment shall be  
35 served with the notice of hearing.

36 (f) If a temporary guardianship is granted ex parte and the  
37 hearing on the general guardianship petition is not to be held within  
38 30 days of the granting of the temporary guardianship, the court  
39 shall set a hearing within 30 days to reconsider the temporary  
40 guardianship. Notice of the hearing for reconsideration of the

1 temporary guardianship shall be provided pursuant to Section  
2 1511, except that the court may for good cause shorten the time  
3 for the notice of the hearing.

4 (g) Visitation orders with the proposed ward granted prior to  
5 the filing of a petition for temporary guardianship shall remain in  
6 effect, unless for good cause the court orders otherwise.

7 (h) (1) If a temporary conservatorship is granted ex parte, and  
8 a petition to terminate the temporary conservatorship is filed more  
9 than 15 days before the first hearing on the general petition for  
10 appointment of conservator, the court shall set a hearing within  
11 15 days of the filing of the petition for termination of the temporary  
12 conservatorship to reconsider the temporary conservatorship.  
13 Unless the court otherwise orders, notice of the hearing on the  
14 petition to terminate the temporary conservatorship shall be given  
15 at least 10 days prior to the hearing.

16 (2) If a petition to terminate the temporary conservatorship is  
17 filed within 15 days before the first hearing on the general petition  
18 for appointment of conservator, the court shall set the hearing at  
19 the same time that the hearing on the general petition is set. Unless  
20 the court otherwise orders, notice of the hearing on the petition to  
21 terminate the temporary conservatorship pursuant to this section  
22 shall be given at least five court days prior to the hearing.

23 (i) If the court suspends powers of the guardian or conservator  
24 under Section 2334 or 2654 or under any other provision of this  
25 division, the court may appoint a temporary guardian or conservator  
26 to exercise those powers until the powers are restored to the  
27 guardian or conservator or a new guardian or conservator is  
28 appointed.

29 (j) If for any reason a vacancy occurs in the office of guardian  
30 or conservator, the court, on a petition filed under subdivision (a)  
31 or on its own motion, may appoint a temporary guardian or  
32 conservator to exercise the powers of the guardian or conservator  
33 until a new guardian or conservator is appointed.

34 (k) On or before January 1, 2008, the Judicial Council shall  
35 adopt a rule of court that establishes uniform standards for good  
36 cause exceptions to the notice required by subdivision (e), limiting  
37 those exceptions to only cases when waiver of the notice is  
38 essential to protect the proposed conservatee or ward, or the estate  
39 of the proposed conservatee or ward, from substantial harm.

1 (l) A superior court shall not be required to perform any duties  
2 imposed pursuant to the amendments to this section enacted by  
3 Chapter 493 of the Statutes 2006 until the Legislature makes an  
4 appropriation identified for this purpose.

5 SEC. 4. Section 2614.7 is added to the Probate Code, to read:

6 2614.7. If a guardian or conservator of the person or estate, or  
7 both, is a professional fiduciary, as described in Section 2340, who  
8 is required to be licensed under the Professional Fiduciaries Act  
9 (Chapter 6 (commencing with Section 6500) of Division 3 of the  
10 Business and Professions Code), the guardian or conservator shall  
11 file, concurrently with the inventory and appraisal required by  
12 Section 2610, a proposed hourly fee schedule or another statement  
13 of his or her proposed compensation from the estate of the ward  
14 or conservatee for services performed as a guardian or conservator.  
15 The filing of a proposed hourly fee schedule or another statement  
16 of the ~~guardian~~ guardian's or conservator's proposed  
17 compensation, as required by this section, shall not preclude a  
18 court from later reducing the ~~petitioner's~~ guardian's, conservator's,  
19 or his or her attorney's fees or other compensation.

20 SEC. 5. Section 2643 of the Probate Code is amended to read:

21 2643. (a) Except as provided in Section 2643.1, on petition  
22 by the guardian or conservator of the person or estate, or both, the  
23 court may by order authorize periodic payments on account to any  
24 one or more of the following persons for the services rendered by  
25 that person during the period covered by each payment:

- 26 (1) The guardian of the person.
- 27 (2) The guardian of the estate.
- 28 (3) The conservator of the person.
- 29 (4) The conservator of the estate.
- 30 (5) The attorney for the guardian or conservator of the person  
31 or estate, or both.

32 (b) Notice of the hearing on the petition shall be given for the  
33 period and in the manner provided in Chapter 3 (commencing with  
34 Section 1460) of Part 1.

35 (c) The petition shall describe the services to be rendered on a  
36 periodic basis and the reason why authority to make periodic  
37 payments is requested. In fixing the amount of the periodic  
38 payment, the court shall take into account the services to be  
39 rendered on a periodic basis and the reasonable value of those  
40 services. The guardian or conservator of the estate may make the

1 periodic payments authorized by the order only if the services  
2 described in the petition are actually rendered. The payments made  
3 pursuant to the order are subject to review by the court upon the  
4 next succeeding account of the guardian or conservator of the  
5 estate to determine that the services were actually rendered and  
6 that the amount paid on account was not unreasonable, and the  
7 court shall make an appropriate order if the court determines that  
8 the amount paid on account was either excessive or inadequate in  
9 view of the services actually rendered.

10 SEC. 6. Section 2643.1 is added to the Probate Code, to read:

11 2643.1. (a) On petition by a guardian or conservator of the  
12 person or estate, or both, who is a professional fiduciary, as  
13 described in Section 2340 and who is required to be licensed under  
14 the Professional Fiduciaries Act (Chapter 6 (commencing with  
15 Section 6500) of Division 3 of the Business and Professions Code),  
16 the court may by order authorize periodic payments on account to  
17 a person described in subdivision (a) of Section 2643 for the  
18 services rendered by that person during the period covered by each  
19 payment only if that person has filed a proposed hourly fee  
20 schedule or another statement of his or her proposed compensation  
21 from the estate of the ward or conservatee for services performed  
22 as a guardian or conservator, as required by Section 2614.7, and  
23 only after the court has addressed any objections filed pursuant to  
24 subdivision (d).

25 (b) The petition shall describe the services to be rendered on a  
26 periodic basis, the reason why authority to make periodic payments  
27 is requested, and a good faith estimate of the fees to be charged  
28 by the professional fiduciary from the date the petition is filed up  
29 to, and including, the date of the next succeeding account required  
30 by Section 2620 or, if the next succeeding account required by  
31 Section 2620 is due in less than one year, a good faith estimate of  
32 the fees to be charged by the professional fiduciary from the date  
33 the petition is filed through the next succeeding 12 months,  
34 inclusive. Prior to ordering periodic payments or fixing the amount  
35 of the periodic payment, the court shall determine whether making  
36 periodic payments is in the best interest of the ward or conservatee,  
37 taking into consideration the needs of the ward or conservatee and  
38 the need to preserve and protect the estate. If the court determines  
39 that making periodic payments is not in the best interest of the  
40 ward or conservatee, the court shall deny the petition to authorize

1 periodic payments. If the court determines that making periodic  
2 payments is in the best interest of the ward or conservatee, the  
3 court shall fix the amount of the periodic payment. In fixing the  
4 amount of the periodic payment, the court shall take into account  
5 the services to be rendered on a periodic basis and the reasonable  
6 value of those services.

7 (c) (1) Notice of the hearing on the petition and notice of how  
8 to file an objection to the petition shall be given for the period and  
9 in the manner provided in Chapter 3 (commencing with Section  
10 1460) of Part 1.

11 (2) The notices required by paragraph (1) shall be made to the  
12 court investigator for the period and in the manner provided in  
13 Chapter 3 (commencing with Section 1460) of Part 1.

14 (d) (1) Any person entitled to notice under paragraph (1) of  
15 subdivision (c) may file with the court a written objection to the  
16 authorization of periodic payments on account. The court clerk  
17 shall set any objections for a hearing no fewer than 15 days after  
18 the date the objections are filed.

19 (2) If an objection is filed pursuant to paragraph (1), the guardian  
20 or conservator shall have the burden of establishing the necessity  
21 for and amount, if any, of periodic payments.

22 (e) The guardian or conservator of the estate may make the  
23 periodic payments authorized by the order only if the services  
24 described in the petition are actually rendered. The payments made  
25 pursuant to the order shall be reviewed by the court upon the next  
26 succeeding account of the guardian or conservator of the estate to  
27 determine that the services were actually rendered and that the  
28 amount paid on account was reasonable and in the best interest of  
29 the ward or conservatee, taking into consideration the needs of the  
30 ward or conservatee and the need to preserve and protect the estate.  
31 The court shall make an appropriate order reducing the guardian  
32 or conservator's compensation if the court determines that the  
33 amount paid on account was either unreasonable or not in the best  
34 interest of the ward or conservatee in view of the services actually  
35 rendered.

36 (f) The authorization for periodic payments granted pursuant  
37 to this section shall terminate as of the due date of the next  
38 succeeding account required by Section 2620. Nothing in this  
39 section shall preclude a guardian or conservator from filing a

1 subsequent petition to receive periodic payments pursuant to this  
2 section.

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