File #: 19-220, **Version:** 1

Title
Rules and Forms | Probate Conservatorship and Guardianship: Qualifications and Education of Appointed Counsel (Action Required)

Summary
The Probate and Mental Health Advisory Committee recommends repealing one rule of court and adopting five rules to update the minimum qualifications and annual education required for counsel to be appointed by the court under Probate Code sections 1470 and 1471 to represent wards and conservatees in proceedings under division 4 of the Probate Code. The committee also recommends revising one form for attorneys to certify their eligibility for appointment, approving the revised form for optional use, and revoking a second certification form. The amendments and revisions respond to suggestions from courts, stakeholders, and advocates to tailor the required qualifications and education more closely to statute, ensure the knowledge and experience needed for effective representation, and simplify the certification process.

Recommendation
The Probate and Mental Health Advisory Committee recommends that the Judicial Council, effective January 1, 2020:

1. Repeal rule 7.1101 of the California Rules of Court;

2. Adopt rule 7.1101 to specify the scope of the chapter, define the terms used in the chapter, and establish general qualifications for appointed counsel;

3. Adopt rule 7.1102 to specify minimum qualifications and annual education related to guardianships required for an attorney to be appointed under Probate Code section 1470 to represent a ward or proposed ward in a guardianship or other proceeding under division 4 of the Probate Code;

4. Adopt rule 7.1103 to specify minimum qualifications and annual education related to conservatorships and legal capacity required for an attorney to be appointed under Probate Code section 1470 or 1471 to represent a conservatee, proposed conservatee, or person alleged to lack legal capacity in a conservatorship or other proceeding under division 4 of the Probate Code;

5. Adopt rule 7.1104 to affirm a court's authority to establish local procedures to administer appointment of qualified attorneys and authorize the court, on an express finding of necessity, to appoint an attorney who does not meet the minimum qualifications or annual education requirements in rule 7.1102 or 7.1103;

6. Adopt rule 7.1105 to specify initial and annual certification requirements;

7. Revise *Certification of Attorney Concerning Qualifications for Court Appointment in Conservatorships or Guardianships* (form GC-010) to conform to the amended certification requirements, incorporate annual certification, simplify the certification process, and approve the form for optional use; and

8. Revoke *Annual Certification of Court-Appointed Attorney* (form GC-011).