IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
AMENDING AND RESTYLING ARIZONA CODE OF JUDICIAL ADMINISTRATION § 7-202: FIDUCIARIES	)	Administrative Order No. 2026 - 92 (Affecting Administrative Order No. 2025-186)

Proposed amendments to the above-captioned section of the Arizona Code of Judicial Administration (ACJA) came before the Arizona Judicial Council on June 19, 2026 and were approved and recommended for adoption.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution

IT IS ORDERED that the amendments to ACJA § 7-202 as indicated on the attached document are adopted, effective November 15, 2026. This effective date will correspond with the effective date of § 7-201: General Requirements and other conforming amendments to the remaining code sections under the Certification and Licensing Program.

Dated this 8th day of July, 2026.

ANN A. SCOTT TIMMER
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
~~Section 7-202~~Article 2: Fiduciaries
Section 7-202: Scope

Together with Article 1, this Article 2 governs the application, licensing, and renewal process; the complaint and disciplinary process; and the administrative hearing process for fiduciaries other than financial institutions. Under ACJA § 7-201, the provisions of Article 1 govern the fiduciary program unless this article provides to the contrary, in which case the provisions of this article govern.

Section 7-202.01: Definitions

~~**A. Definitions.**~~ In addition to the definitions ~~provided~~ in the Arizona Code of Judicial Administration (ACJA) § 7-201.01~~(A)~~, the following definitions apply to this article governing fiduciaries:

"Active and direct supervision" means ~~"supervision~~ the routine and regular monitoring and control exercised by a licensed fiduciary or designated principal ~~who provides or exercises routine and regular control~~ over ~~the services of and assumes personal professional oversight and responsibility for the services of~~ other licensed fiduciaries, ~~and certified and licensed~~ professionals, trainees, and support staff ~~to whom the licensed fiduciary delegates~~ performing or assisting the performance of authorized services delegated by the supervising licensed fiduciary or designated principal ~~non-informed consent and~~ ~~non-contract entering authority~~. Active and direct supervision does not require ~~a principal's~~ the supervisor's constant physical presence if ~~the supervising principal~~ they are able—by radio, telephone, or electronic communication ~~is or can be easily in~~ —to maintain the contact necessary to exercise the degree of monitoring and control required for active and direct supervision ~~with the fiduciary, trainee, or staff by radio, telephone, or electronic communication~~.

"Affinity" means a close relationship based on marriage rather than common ancestry.

"Board" means the fiduciary board.

"Consanguinity" means descending from a common ancestor.

"Conservator" means "a person who is appointed by a court to manage the estate of a protected person" ~~as provided in~~ under A.R.S. § 14-1201(10).

"Department director" means the ~~individual appointed by the governor of Arizona as provided in A.R.S. § 41-604, to administer the~~ Director of the Arizona Department of Veterans' Services appointed under A.R.S. § 41-601.

"Devise" means "when used as a noun, … a testamentary disposition of real or personal property and, when used as a verb, means to dispose of real or personal property by will" ~~as provided in~~ under A.R.S. § 14-1201(14).

"Devisee" means "a person designated in a will to receive a devise" ~~as provided in~~ under A.R.S. § 14-1201(15).

"Division" means the certification and licensing division of the AOC.

"Entity" means a business entity, including a corporation, limited liability company, or partnership; the Arizona Department of Veterans' Services; or the Office of the Public Fiduciary.

"Fiduciary," consistent with A.R.S. § 14-5651~~(K)(1)(J)~~ and ~~(J)~~(K)(1), means:

1. A person who, for a fee, serves as a court-appointed:

   a. ~~guardian~~ Guardian or conservator for one or more persons who are unrelated to the fiduciary.

   ~~2~~b. ~~A person who for a fee serves as a personal~~ Personal representative and who is not related to the decedent, is not nominated in a will or by a power conferred in a will, and is not a devisee in the will.

   ~~3~~c. ~~A person who for a fee serves as a~~ A trustee or agent under a power of attorney.

   ~~4~~d. A public fiduciary ~~appointed pursuant to section 14-5601~~as defined in this section.

   ~~5~~e. The Arizona Department of Veterans' Services.

2. A licensed fiduciary acting, with or without court appointment, as a guardian, conservator, personal representative, trustee, or agent under a power of attorney.

"Financial institution" ~~means, as provided in~~ has the meaning given in A.R.S. § 14-5651(K)(2):

> ~~[A]~~ "Financial institution" means a bank that is insured by the federal deposit insurance corporation and chartered under the laws of the United States or any state, a trust company owned by a bank holding company that is regulated by the federal reserve board or a trust company that is chartered under the laws of the United States or this state.

"Foreign personal representative" ~~means~~ has the meaning given in A.R.S. § 14-1201(26): "a personal representative who is appointed by another jurisdiction." ~~as provided in A.R.S. § 14-1201(26).~~

"Guardian" ~~means~~ has the meaning given in A.R.S. § 14-1201(29): "a person who has qualified as a guardian of a minor or incapacitated person pursuant to testamentary or court appointment but excludes a person who is merely a guardian ad litem." ~~as provided in A.R.S. § 14-1201(29).~~

“Guardian ad litem” ~~includes~~ means ~~“a person~~ an individual who ~~is appointed pursuant to [A.R.S.] § 14-1408” as provided in A.R.S. § 14-1201(30)~~receives a limited capacity appointment by a court to represent the interest of an individual in a specific legal proceeding. A guardian ad litem is not required to be licensed under this article.

“Informed consent” means a voluntary decision following presentation of all facts necessary to form the basis of an intelligent consent by the person or guardian with no minimizing of known dangers of any procedures.

“Minor ward” ~~means~~ has the meaning given in A.R.S. § 14-5101: “a minor for whom a guardian has been appointed solely because of minority.” ~~as provided in A.R.S. § 14-5101(16).~~

“Other Professionals” means individuals licensed in another field or discipline and who a licensed fiduciary or designated principal employs or contracts with, on behalf of a ward or decedent’s estate, to perform professional services for which they are licensed and includes registered nurses, licensed nurse practitioners, certified public accountants, certified paralegals, licensed attorneys, and certified legal document preparers.

“Personal representative” has the meaning ~~as provided~~ given in A.R.S. § 14-1201~~(48)~~ as including: ~~and~~ “~~includes~~ an executor, an administrator, a successor personal representative, a special administrator, and persons who perform substantially the same function under the law governing their status.”

“Program coordinator” means the ~~“~~division staff~~”~~ assigned to administer the fiduciary program~~as provided in ACJA § 7-201(A)~~.

“Public fiduciary” means the office of the public fiduciary and the individual appointed by the board of supervisors in each county, ~~pursuant~~ and licensed under this article, to hold and perform the duties of the office for those persons or decedents’ estates in need of guardianship, conservatorship, or administration where there is no person qualified and willing to act in that capacity under A.R.S. §§ 14-5601 and 14-5602 ~~to conduct the affairs of the office of the public fiduciary in the county~~.

“Protected person” ~~means~~ has the meaning given in A.R.S. § 14-5101: “a minor or any other person for whom a conservator has been appointed or any other protective order has been made.” ~~as provided in A.R.S. § 14-5101(10).~~

“Related” means a ~~spouse or a person associated~~ familial connection by blood, adoption, or marriage within the fifth degree of consanguinity or affinity.

“Support staff” means individuals who are:

1. Employed or contracted by the licensed fiduciary or designated principal to perform office functions and administrative services, including clerical, bookkeeping, or other administrative support duties; and

2. Not hired to engage in conduct or provide services, and do not engage in conduct or provide services, for which they are not licensed if a license is required under this chapter or Title 14, Chapter 5, Article 7, Arizona Revised Statutes.

"Within the fifth degree of consanguinity or affinity" means ~~any person~~ individuals descending from a common ancestor five generations back including who are connected by blood, adoption, or marriage as follows: a spouse or a surviving spouse, child, grandchild, great-grandchild, parent, grandparent, great-grandparent, great-great grandparent, sibling, nephew or niece, ~~grandnephew~~ great nephew or ~~grandniece~~ great niece, great-grandnephew or great-grand niece, uncle or aunt, great uncle or great aunt, great-grand uncle or great-grand aunt, first cousin, or first cousin once removed.

"Trainee" means ~~a person~~ an individual ~~who would qualify for licensure~~ registered with the division and eligible to obtain the work experience required for ~~as a~~ fiduciary licensing ~~but for the lack of required experience and who is seeking to gain the required experience to qualify as a licensed fiduciary by working under the active and direct supervision of a designated principal or licensed fiduciary to perform authorized services as provided in this section~~under ACJA §§ 7-202.05(B) and 7-202.06.

"Ward" ~~means~~ has the meaning given in A.R.S. § 14-5101: "a person for whom a guardian has been appointed." ~~as provided in A.R.S. § 14-5101(16).~~

Section 7-202.02: Jurisdiction

A. Authority. Under A.R.S. § 14-5651(A), the supreme court administers the fiduciary licensing program and adopts rules and establishes and collects fees necessary to implement the program.

B. Purpose. Together with Article 1, the essential purposes of this article are to provide for the licensing of fiduciaries eligible for appointment by the superior court under A.R.S. § 14-5651 and the effective administration of the fiduciary program for the protection of the public.

~~**B. Applicability**~~

~~1. This section establishes the fiduciary licensure program administered by the supreme court pursuant to A.R.S. § 14-5651(A). This section is read in conjunction with ACJA § 7-201: General Requirements. In the event of a conflict between this section and ACJA § 7-201, the provisions of this section govern.~~

~~2. This section applies to the licensure of fiduciaries, except financial institutions. Pursuant~~ to ~~A.R.S. § 14-5651(A), "the superior court shall not appoint a fiduciary unless that person is licensed by the supreme court." To be eligible for court appointment as a guardian, conservator, or personal representative, all individuals and entities, except financial institutions, must hold a valid license under this section and comply with the requirements of A.R.S. § 14-5651.~~

3. ~~Consistent with A.R.S. § 14-5651(J), this section also applies to any supreme court licensed fiduciary who is acting as a guardian, conservator, personal representative, trustee, or agent under a power of attorney, regardless of whether that person is acting pursuant to court appointment.~~

4. ~~As provided in A.R.S. §§ 14-5501(F), 14-10820, 36-3221(E), and 36-3223(D), a person whose fiduciary license has been suspended or revoked pursuant to A.R.S. § 14-5651 may not serve:~~

   a. ~~As an agent under a power of attorney in any capacity unless the person is related to the principal by blood, adoption, or marriage; and~~

   b. ~~As a trustee in any capacity unless the person is related to the beneficiary by blood, adoption, or marriage.~~

   ~~The prohibition against serving as an agent under a power of attorney or as a trustee does not apply if the person's license has been reinstated and is in good standing.~~

~~**C. Purpose.** This section is intended to result in the effective administration of the fiduciary program and in licensure of fiduciaries and fiduciary entities for performance of responsibilities in a professional and competent manner, and for the protection of the public in accordance with all applicable statutes, ACJA sections, and court rules.~~

Section 7-202.03: Administration

~~D~~A. ~~Administration~~ Supreme Court.

1. ~~Role and Responsibilities of the Supreme Court.~~

   a. ~~In addition to the supreme court's roles and responsibilities for administering the fiduciary program and adopting rules and establishing and collecting the fees, costs, and fines for implementation and enforcement of the program as provided in ACJA § 7-201(D). ACJA § 7-201(D) and A.R.S. § 14-5651(A) provide that the rules adopted must, at minimum, include the following:~~

      ~~(1) A code of conduct.~~
      ~~(2) A requirement that fiduciaries post a cash deposit or surety bond with the supreme court.~~
      ~~(3) A requirement that on appointment a fiduciary who is serving as a guardian or conservator must provide written information to the ward or protected person and all persons entitled to notice pursuant to A.R.S. § 14-5309 or 14-5405, using language prescribed by the supreme court that includes reference to the fiduciary code of conduct, that the fiduciary is licensed by the supreme court and subject to regulation by the supreme court.~~

~~(4) Minimum qualifications.~~
~~(5) Certification and disciplinary processes.~~
~~(6) Biennial renewal of licensure.~~

1. The supreme court administers the fiduciary licensing program, through the administrative office of the courts and the Arizona Code of Judicial Administration, ~~governing certification including the adoption of rules and establishing and collecting the fees necessary to implement the program,~~ under A.R.S. § 14-5651(A).

~~b~~2. ~~As provided in~~ Under A.R.S. §§ 35-146 and 35-147, the supreme court must deposit the ~~fees, costs, and fines~~ monies collected ~~related to fiduciaries~~ in administering the fiduciary program in the confidential intermediary and fiduciary fund established by A.R.S. § 8-135.

2. ~~Role and Responsibilities of the Director. The director's responsibilities are as provided in ACJA § 7-201(D).~~

3. ~~Role and Responsibilities of the Deputy Director. The responsibilities of the deputy director are as provided in ACJA § 7-201(D).~~

~~4~~**B**. ~~Responsibilities of~~ **Division Staff.** In addition to ~~the responsibilities provided in~~ assisting in the administration of the fiduciary licensing program under ACJA § 7-201.03(D), A.R.S. § 14-5651(C)(6) ~~division staff must:~~ requires the fiduciary program coordinator to serve as every licensed fiduciary's lawful agent for accepting service of process in any action, lawsuit, or proceeding relating to their duties as a fiduciary by appointment under ACJA § 7-202.08(B).

1. Method of service. When the fiduciary program coordinator accepts service as a fiduciary's lawful agent, the fiduciary program coordinator must transmit the service of process by registered mail to the fiduciary's last known address.

2. Exceptions.

   a. The fiduciary program coordinator does not serve as a fiduciary's agent for accepting service of process on a public fiduciary or the Arizona Department of Veterans' Services.

   b. The fiduciary program coordinator does not serve as a fiduciary's agent for accepting service of process when the division is required to serve a licensed fiduciary under Article 1 of this chapter.

~~a. Provide a training session on the role and responsibilities of the licensed professional fiduciary pursuant to subsection (E)(1)(d).~~

~~b. Administer the examination required pursuant to this section and ACJA § 7-201(E)(1)(c), by offering the examination a minimum of four times per calendar year and no fewer than once every three months.~~

~~c. Pursuant to A.R.S. § 14-5651(C)(6), the program coordinator serves "as the lawful agent for the purpose of accepting service of process in any action, suit or proceeding that relates to the duties of a fiduciary."~~

Section 7-202.04: Fiduciary Board

~~5. Role and Responsibilities of the Fiduciary Board.~~

~~a~~A. **Duties.** The fiduciary board ~~is established pursuant to ACJA § 7-201(D)(5)~~ exercises the authority and has the duties stated in ~~that section~~ACJA § 7-201.04(D) and whenever board action is provided for under this chapter.

~~b~~B. **Composition.** The fiduciary board has ~~eleven~~ 11 members consisting of:

(1~~.)~~ Three licensed fiduciaries who have worked as ~~a~~ licensed ~~fiduciary~~ fiduciaries in private practice for at least ~~five~~ 5 years;

(2~~.)~~ Two licensed fiduciaries who have worked as ~~a~~ licensed ~~fiduciary~~ fiduciaries in a public office for at least ~~five~~ 5 years;

(3~~.)~~ One active or retired judge of the superior court or the court of appeals;

(4~~.)~~ One court administrator or clerk of the superior court;

(5~~.)~~ One attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law;

(6~~.)~~ Two public members; and

(7~~.)~~ An additional member appointed by the chief justice.

Section 7-202.05: Individual Licensing Eligibility

~~**E. Initial Licensure.**~~

A. Personal Qualifications.

1. ~~Eligibility.~~ Under A.R.S. § 14-5651(C), ~~An~~ an individual applicant ~~is eligible~~ for ~~licensure as an individual or as a business entity as follows~~a fiduciary license must:

~~a. Individual Licensure.~~

~~(1) Pursuant to A.R.S. § 14-5651(C), an applicant for licensure must:~~

~~(~~a.~~)~~ Be at least ~~twenty-one~~ 21 years ~~of age~~ old~~.~~;

~~(~~b.~~)~~ Be a citizen of ~~this country~~ the United States~~.~~; and

~~(~~c.~~)~~ Not have been convicted of a felony.

~~(d) Attest that the applicant has not been found civilly liable in an action that involved fraud, misrepresentation, material omission, misappropriation, theft, or conversion.~~

~~(e) Consent in the application form to the jurisdiction of the courts of this state for all actions arising under the laws governing fiduciaries and public fiduciaries and appoint the fiduciary program coordinator as their agent for accepting service of process in any action relating to their duties as a fiduciary.~~

2. An applicant for a fiduciary license must not pose a risk to the public.

B. Professional Requirements.

1. Education, training, and experience. Individual fiduciary licensing applicants must have the required combination of education, training, and work experience under one of the following options:

~~(2) In addition to the eligibility requirements of A.R.S. § 14-5651(C), the applicant must possess one of the following:~~

~~(~~a.~~)~~ Option 1.

~~(1)~~ A high school diploma or ~~a~~ general equivalency diploma evidencing the passing of the general education development test; and

~~(2)~~ ~~a~~A minimum of ~~three~~ 3 years of full-time equivalent work experience within the ~~previous ten~~ 10 years preceding application. ~~specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship, personal representative, or trusts, in which the applicant, in a non-familial relationship, worked and performed services in the administration of a trust, decedent's estate, guardianship, or conservatorship in one or a combination of the following circumstances:~~

~~(i) Under the supervision of a licensed fiduciary;~~

~~(ii) Under the supervision of a bank trust or trust company officer; or~~

~~(iii) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law.~~

~~(~~b.~~)~~ Option 2.

(1) A bachelor of arts, bachelor of science, or ~~a~~ master's degree from an accredited college or university ~~plus~~; and

(2) ~~a~~A minimum of ~~one~~ 1 year of full-time equivalent work experience within the ~~previous five~~ 5 years preceding application. ~~specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship,~~

~~personal representative, or trusts, in which the applicant, in a non-familial relationship, worked and performed~~ performing ~~services in the administration of a trust, decedent's estate, guardianship, or conservatorship in one or a combination of the following circumstances:~~

~~(i) Under the supervision of a licensed fiduciary;~~

~~(ii) Under the supervision of a bank trust or trust company officer; or~~

~~(iii) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law.~~

~~(c.)~~ Option 3.

(1) A high school diploma or ~~a~~ general equivalency diploma evidencing the passing of the general education development test; ~~a certificate of completion from a paralegal or legal assistant program that is not approved by the American Bar Association but is institutionally accredited and requires successful completion of a minimum of 24 semester units, or the equivalent, in fiduciary specialization courses;~~

(2) ~~plus a~~A minimum of ~~two~~ 2 years of work experience within the ~~previous ten~~ 10 years preceding application; and one of the following: ~~specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship, personal representative, or trusts, in which the applicant, in a non-familial relationship, worked or performed services in the administration of a trust, decedent's estate, guardianship, or conservatorship in one or a combination of the following circumstances:~~

~~(i) Under the supervision of a licensed fiduciary;~~

~~(ii) Under the supervision of a bank trust or trust company officer; or~~

~~(iii) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law.~~

(a) A certificate of completion from a paralegal or legal assistant program that, although not approved by the American Bar Association, is institutionally accredited and requires successful completion of a minimum of 24 semester units, or its equivalent, in fiduciary specialization courses;

(b) A certificate of completion from an accredited educational program specifically designed to qualify an applicant for fiduciary licensing under this section; or

(c) A certificate of completion from a paralegal or fiduciary program approved by the American Bar Association.

(d) ~~A high school diploma or a general equivalency diploma evidencing the passing of the general education development test; a certificate of completion from an accredited educational program designed specifically to qualify a person for licensure as a fiduciary under this section; plus a minimum of two years of work experience within the previous ten years specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship, personal representative, or trusts, in which the applicant, in a non-familial relationship, worked and performed services in the administration of a trust, decedent's estate, guardianship, or conservatorship in one or a combination of the following circumstances:~~

~~(i) Under the supervision of a licensed fiduciary;~~

~~(ii) Under the supervision of a bank trust or trust company officer; or~~
~~(iii) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law.~~

(e) ~~A high school diploma or a general equivalency diploma evidencing the passing of the general education development test and a certificate of completion from a paralegal or fiduciary program approved by the American Bar Association. In addition, the applicant must have a minimum of two years of work experience within the previous ten years specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship, or personal representative, as defined in subsection (A), or trusts, where the applicant, in a non-familial relationship, worked and performed services in the administration of a trust, decedent's estate, guardianship or conservatorship in one or a combination of the following circumstances:~~

~~(i) Under the supervision of a licensed fiduciary;~~
~~(ii) Under the supervision of a bank trust or trust company officer; or~~
~~(iii) Under the supervision of a licensed attorney whose major emphasis is in the area of probate, trust, elder, mental health, or disability law.~~

(f) d. Option 4.

(1) A juris doctor~~ate~~ degree from a law school ~~accredited~~ provisionally or fully approved by the American Bar Association at the time of graduation or the applicant has been actively engaged in the authorized practice of law in one or more states, territories, or the District of Columbia for at least 3 of the last 5 years preceding the application; and

(2) ~~currently~~ Currently admitted to the active practice of law in any jurisdiction~~, active~~ and in good standing or resigned in good standing in ~~the state in which the applicant~~ all jurisdictions where the applicant has been ~~was~~ admitted.

(g) e.Option 5.

(1) A high school diploma or ~~a~~ general equivalency diploma evidencing the passing of the general education development test; and

(2) ~~appointment~~ Service as a foreign fiduciary ~~where the fiduciary served pursuant to a~~ appointed by court order; and. -

(3) ~~In addition, the applicant must have a~~ A minimum of ~~three~~ 3 years of work experience as a fiduciary. ~~specifically related to one or a combination of the fiduciary relationships of guardianship, conservatorship, or personal representative, as defined in subsection (A), or trusts, where the applicant, in a non-familial relationship, worked and performed services in the administration of a trust, decedent's estate, guardianship, or conservatorship.~~

(h) ~~f.~~ Option 6.

(1) A high school diploma or ~~a~~ general equivalency diploma evidencing the passing of the general education development test; and

(2) ~~a~~ A registered master guardian certification in good standing with the National Guardianship Association or a Legal Paraprofessional licensed to provide legal services in probate law under Article 9 of this chapter.

~~(3~~2.~~)~~Work experience modification. ~~Upon review, and for~~ For good cause and on the recommendation of the division director, where there is a requirement that an applicant's work experience be completed within a specified number of years preceding the application, the board may ~~waive or reduce the requirement that~~ accept an applicant's work experience ~~be completed within the ten or five year period before application~~ over a greater number of years than those specified. ~~but~~ But the board may not grant any exception to the total number of years of work experience required.

~~(4) Examination.~~

~~(a) The applicant must pass a written examination testing the applicant's knowledge and minimum competencies to serve as a fiduciary.~~

~~(b) On passing the examination, the applicant must attend and complete a session on the role and responsibilities of the licensed professional fiduciary as provided by division staff.~~

~~(c) The applicant has 90 days from the date of passing the examination to complete the licensing process. An applicant who does not complete the process within 90 days is considered a new applicant and must submit a new application and pay all initial licensure, examination, and training fees.~~

Section 7-202.06: Trainees

~~(5)~~A. Trainee ~~Work Experience~~Requirements.

1. A trainee seeking to satisfy the work experience requirement under ACJA § 7-202.05(1)(a)–(c), (e), and (f) (Options 1–3, 5, and 6) ~~An individual may~~ must:

a. ~~work~~ Work under the active and direct supervision of a:

(1) ~~licensed~~ Licensed fiduciary;
(2) Designated principal~~,~~;
(3) ~~bank~~ Bank trust or trust company officer~~,~~; or
(4) ~~licensed~~ Licensed attorney whose major emphasis is ~~in the area of~~ probate, trust, elder, mental health, or disability law ~~to gain the required work experience must:~~.

~~(a)~~b. ~~Complete the~~ Submit a completed trainee registration form ~~and submit it~~ to the division.

~~(b)~~c. Pay the ~~required~~ trainee registration fee under ACJA § 7-202.28(A)(1)(d), ~~which covers the cost of trainee registration and one administration of the examination but does not include the required fingerprint fee~~.

~~(c)~~d. Submit a full set of fingerprints ~~as required by~~ under ACJA § 7-201.10(B)(4) and A.R.S. § 14-5651(B) ~~and this section~~.

~~(d)~~e. ~~Satisfy~~ Comply with the continuing education requirement ~~of subsection (L)(b)(2)~~ for trainees under ACJA § 7-202.13.

~~(e) Submit an application for individual licensure upon satisfying the eligibility requirements of subsection (E)(1)(a).~~

2. The following requirements must be met for a trainee's supervised work to qualify as work experience under ACJA § 7-202.05(B)(1)(a)–(c), (e), and (f) (Options 1–3, 5, and 6):

   a. The work must involve one or a combination of the fiduciary relationships of guardianship, conservatorship, personal representative, or trusts.

   b. The work must involve performing services in the administration of a trust, decedent's estate, guardianship, or conservatorship.

   c. The applicant must perform the work under the supervision of a:
      (1) Licensed fiduciary;
      (2) Bank trust or trust company officer; or
      (3) Licensed attorney whose major emphasis is probate, trust, elder, mental health, or disability law.

   d. The applicant must not be related to the individuals supervising the work or receiving the services.

B. Trainee Supervision.

1. A fiduciary supervising a trainee must maintain primary responsibility for the client or estate and must not delegate this duty to a trainee.

2. A supervising fiduciary must:

   a. Personally assume professional responsibility for providing guidance to a trainee who is performing services to gain work experience;

   b. Provide active and direct supervision over the trainee's work at the level the supervising fiduciary finds necessary and appropriate;

   c. Provide assistance to the trainee at the level the supervising fiduciary finds necessary and appropriate;

   d. Ensure that the trainee is familiar with this article, including the code of conduct in ACJA § 7-201.16 through 7-202.26; and

e. Ensure that the supervising fiduciary's name and license number are included on any documents prepared by the trainee and filed in a court or tribunal.

C. Limitations.

1. A trainee may only perform authorized services under the supervision of the licensed fiduciary or designated principal.

2. A trainee may only prepare documents for filing with the court as follows:

   a. A trainee may only prepare documents that a fiduciary is authorized to prepare;

   b. A trainee may only prepare documents for filing under the supervision of the licensed fiduciary or designated principal; and

   c. A trainee is not authorized to file and must not file any document with the court.

3. A trainee must not provide informed verbal or written consent or enter into contractual agreements on behalf of a ward, licensed fiduciary, or designated principal.

4. Neither the trainee nor the supervising fiduciary may represent that the trainee is a licensed fiduciary.

Section 7-202.07: Examinations

A. **Examination Requirement.** An applicant for fiduciary licensing must earn a passing score on the fiduciary licensing examination before filing their licensing application.

B. **Dates.** The fiduciary licensing examination must be offered:

1. At least 4 times during each calendar year; and

2. Examinations must not be more than 3 months apart.

C. **After Examination.** After passing the fiduciary licensing examination, the applicant must attend and complete mandatory training on the role and responsibilities of a licensed fiduciary.

~~b. Licensure as a Business Entity.~~

~~(1) Designation of Principal. The initial application of a corporation, limited liability company, or partnership; the Arizona Department of Veterans' Services; or Office of the Public Fiduciary must:~~
~~(a) Designate a principal who:~~

~~(i) Holds a valid, active license as a fiduciary that has not been previously revoked.~~

(ii) ~~Complies with the licensure renewal requirements.~~

~~(b) Submit a completed application form to the division with the applicable fees.~~

~~(i) The initial application must include a list of all licensed fiduciaries and trainees acting for or on behalf of the business entity, Arizona Department of Veterans' Services, or Office of the Public Fiduciary with the initial application.~~

~~(ii) The initial application of a business entity must include articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Secretary of State, as applicable.~~

~~(2) Replacement of Principal. If a business entity, the Arizona Department of Veterans' Services; or county board of supervisors, in the case of the Office of the Public Fiduciary, receives notice that the designated principal is no longer willing or able to serve as the designated principal, it must:~~

~~(a) Withing 14 days, notify division staff of the name of the new designated principal.~~

~~(b) Within 30 days, file an executed principal form designating the new principal with division staff.~~

~~(c) Ensure the new designated principal meets the requirements of subsection (E)(1)(b)(1).~~

~~(d) A designated principal is not unable to serve due to short-term vacations or illnesses.~~

~~(3) Responsibilities of Designated Principal.~~

~~(1) The designated principal must:~~

~~(a) Provide active and direct supervision of all other licensed fiduciaries, trainees, and support staff who work with wards, protected persons, or decedent estates and who work for the corporation, limited liability company, or partnership, Department of Veterans' Services, or Office of the Public Fiduciary;~~

~~(b) Adopt policies and procedures giving reasonable assurance that all licensed fiduciaries and trainees conform to the applicable rules, statutes and sections of the ACJA and that non-licensed staff conduct themselves in accordance with the applicable rules, statutes, and sections of the ACJA.~~

~~(c) In compliance with subsections F and J, delegate and assume personal professional responsibility for ensuring the tasks performed by the licensed fiduciaries, professionals, support staff, and others who provide services for wards, protected persons, or decedent estates are within the scope of their training and experience and have been delegated by the principal.~~

~~(d) Agree that at least one licensed fiduciary will assume the primary responsibility for each court appointment as a guardian, conservator or personal representative.~~

~~(e) File with the division staff, by June 30 each year, a list of all licensed fiduciaries and trainees acting for or on behalf of the business entity, Department of Veterans' Services, or Office of the Public Fiduciary.~~

~~(2) The designated principal may represent the business entity or public fiduciary office in any proceeding under this section or ACJA § 7-201. The director of the Department of Veterans' Services or designated principal may represent the department in any proceeding under this section or ACJA § 7-201.~~

Section 7-202.08: Initial Licensing; Application Process

A. Filing Application.

1. An applicant may apply for fiduciary licensing after completing the eligibility requirements under ACJA § 7-202.05(B) with any modification approved by the board under ACJA§ 7-202.05(B)(2).

2. An applicant must file a completed licensing application no later than 90 days after receiving written notice of passing the fiduciary licensing examination.

   ~~a.~~ The 90-day deadline may be extended for good cause under ACJA § 7-201.07(B).

   ~~b.~~ An applicant who does not complete the application process within the 90-day period, including any extension, is considered a new applicant and must submit a new application with all initial licensing, examination, and training fees.

B. Initial Application Form. In addition to complying with the application requirements under ACJA § 7-201.10(B), the fiduciary applicant must, on the form specified by the division:

1. Attest that the applicant has not been found civilly liable in an action involving fraud, misrepresentation, material omission, misappropriation, theft, or conversion;

2. Attest that the applicant has completed at least one of the education, training, and work experience options under ACJA § 7-202.05(B).

3. Consent to the jurisdiction of Arizona state courts for all legal proceedings arising under the laws governing fiduciaries and public fiduciaries;

4. Appoint the fiduciary program coordinator as their lawful agent for accepting service of process in any action, lawsuit, or proceeding relating to their duties as a fiduciary; and

5. Indicate whether the applicant intends to work in affiliation with a public fiduciary; the Arizona Department of Veterans' Services or the United States Department of Veterans Affairs; a business entity; another government entity; or independently.

C. Bond. Unless the applicant is exempt under ACJA § 7-202.09(B), the application must be accompanied by a $20,000 cash or surety bond, which must be maintained for the duration of the fiduciary's license and any renewed license.

1. Surety bond. If the bond is a surety bond, it must be issued by an insurer holding a certificate of authority issued by the director of the Arizona Department of Insurance and authorized to do business in Arizona; must be executed on an approved bond form written in favor of the state of Arizona and the supreme court; and must contain:

   ~~a.~~ A bond number;

   ~~b.~~ The fiduciary applicant's name;

   ~~c.~~ The name of the insurance company;

   ~~d.~~ Have a total aggregate liability of $20,000;

   ~~e.~~ Have a provision that the insurer will not cancel the bond without at least 30 days prior written notice to the supreme court by the insurer; and

   ~~f.~~ Be signed by the insurer and fiduciary applicant.

2. Cash bond. If a cash bond, it must be in the amount of $20,000 and deposited with the state treasurer in a special non-interest-bearing account.

   ~~a.~~ This cash bond is in addition to a bond required under A.R.S. §§ 14-5411(A) or 14-3603(A).

   ~~b.~~ This bond may be forfeited under A.R.S. § 14-5651(D) to compensate for investigation and hearing expenses if the fiduciary licensee is disciplined. If the bond is forfeited, the funds must be deposited in the confidential intermediary and fiduciary fund established under A.R.S. § 8-135.

   ~~c.~~ Upon license expiration or surrender, the licensee may make a written request for return of the bond. Within 120 days of receiving the request, the division must return any cash bond not subject to forfeiture.

D. Entity Application. The initial application form submitted by an entity must:

1. Designate a principal who:

   ~~a.~~ Holds a valid, active fiduciary license that has never been revoked.

   ~~b.~~ Complies with the license renewal requirements.

2. Be accompanied by:

~~a.~~ A list of all licensed fiduciaries and trainees acting for or on behalf of the applicant; and

~~b.~~ If the applicant is a business entity, the articles of incorporation and letters of good standing from the Arizona Corporation Commission or the Arizona Secretary of State, as applicable to the type of business entity.

~~c.~~ A list of all persons with an ownership interest in the business entity.

~~d.~~ If the applicant is a business entity, the bond required under (C).

~~2. Procedures for Initial Licensure. In addition to satisfying the eligibility requirements of subsection (E)(1), an applicant must comply with the following:~~

~~a. Fingerprints. The applicant must submit with the application, a full set of fingerprints, with the fee established by law, for the purpose of obtaining a state and federal criminal records check as required by A.R.S. § 14-5651(B). An application submitted without a fingerprint card, is deficient.~~

~~b. Bond. For initial licensure the applicant must file with the application a cash or surety bond for the purposes described in A.R.S. § 14-5651(D) and subsection (E)(4)(b). This bond is separate from the requirements of A.R.S. §§ 14-5411(A) and 14-3603(A). Upon licensure, the licensee must maintain the cash or surety bond as long as the licensure is in place. Upon expiration or surrender of the license, the licensee may apply in writing to division staff for return of any cash bond not forfeited. Division staff will return any cash bond not forfeited within 120 days.~~

~~(1) A bond may be either a surety or cash bond as follows:~~

~~(a) A surety bond must be issued by an insurer holding a certificate of authority issued by the director of the Arizona Department of Insurance and authorized to do business in Arizona. The bond must be executed on an approved bond form written in favor of the state of Arizona and the supreme court and must contain:~~

~~(i) A Bond Number;~~

~~(i) The fiduciary applicant's name;~~

~~(ii) The name of the insurance company;~~

~~(iii) Have a total aggregate liability of $10,000;~~

~~(iv) Have a provision that the insurer will not cancel the bond without at least 30 days prior written notice to the supreme court by the insurer; and~~

~~(v) Be signed by the insurer and fiduciary applicant.~~

~~(2) A cash bond must be in the amount of $10,000 and deposited with the state treasurer in a special non-interest-bearing account.~~

~~(3) If the applicant is found by the board to have violated any section adopted pursuant to A.R.S. § 14-5651, the board may cause the forfeiture of the cash or surety bond, as applicable, to the supreme court. If the bond is forfeited, division staff must deposit the funds in the confidential intermediary and fiduciary fund established~~

~~pursuant to A.R.S. § 8-135.~~

~~c. Bond Exemption. State and local governmental agencies and agency staff, including fiduciaries in the office of the public fiduciary and the Arizona Department of Veterans' Services, are not required to post the surety or cash bond.~~

Section 7-202.09: Exemptions

~~3~~**A. Licensing Exemptions ~~from Licensure~~.** ~~a. Licensure~~ Licensing is not required ~~of~~ for:

~~(~~1.~~)~~ Any person ~~or business entity~~ who serves, if court appointed, as a guardian, conservator, or personal representative for one or more persons for no fees or compensation, monetary or otherwise;

~~(~~2.~~)~~ Any person who serves, if court appointed, as a personal representative, guardian or conservator if they are related to the decedent or incapacitated or protected person;

~~(~~3.~~)~~ Any person who serves, if court appointed, as a personal representative who is nominated in a will or nominated by a power conferred in a will;

~~(~~4.~~)~~ Any person who serves, if court appointed, as a personal representative who is a devisee in the will;

~~(~~5.~~)~~ Any person appointed to serve as a guardian ad litem;

~~(~~6.~~)~~ Any person serving as a foreign personal representative in an ancillary probate administration ~~pursuant to~~ under A.R.S. § 14-4205;

~~(~~7.~~)~~ Any person serving as a foreign conservator ~~pursuant to~~ under A.R.S. §§ 14-5431 and 14-5432; ~~or~~

~~(~~8.~~)~~ A financial institution as provided ~~in~~ under A.R.S. § 14-5651(G)~~.~~;

~~(~~9.~~)~~ ~~As ordered~~ Any person exempted by the supreme court for good cause ~~as provided in~~ under A.R.S. § 14-5651(G)~~.~~; or

~~(~~10.~~)~~ ~~Emergency Exemption.~~ An individual appointed by an order of the presiding judge of the superior court or designated judicial officer granting a temporary license exemption to allow the individual to serve as a fiduciary on a temporary basis while going through the licensing process.

a. Any person ~~or business entity~~ seeking court appointment as a conservator, guardian, or personal representative with a temporary license exemption ~~may apply for an emergency exemption from licensure by filing an application~~ must file an application for exemption~~,~~ on ~~the~~ a prescribed form, ~~-~~with the clerk of the superior court in the county where the appointment is requested.

b. ~~For good cause shown, the~~ The presiding judge of the superior court or designated judicial officer may grant the good cause exemption on the following conditions:

(~~a~~1) ~~May grant the exemption if the presiding judge or designated judicial officer finds the~~ On a finding that the applicant possesses the experience, education, and skills necessary to meet the needs of the ward, protected person, or decedent's estate.

(2) In making ~~this~~ the good cause determination and the finding under (1), the presiding judge or designated judicial officer may consider:

(~~i~~a) The nature of ~~the~~ applicant's relationship with the ward, protected person, or deceased person.

(~~ii~~b) The type of decisions the fiduciary may make.

(~~iii~~c) The amount of assets the fiduciary must manage.

(~~iv~~d) Any limitations or conditions on the appointment.

(~~v~~e) The estimated cost of the fiduciary and associated professional fees the ~~fiduciary~~ applicant must charge.

(~~vi~~f) That the applicant is not acting as a fiduciary in any other case ~~unless~~ where they are not related to the ward or protected person by blood or marriage.

(~~vii~~g) That the applicant has known the ward, protected person, or deceased person for at least ~~two~~ 2 years.

(~~viii~~h) That no prejudice or harm is likely to occur if the exemption is granted.

(~~ix~~i) That there is an emergency need for the ~~temporary appointment~~ exemption;

(~~x~~j) That no relative is willing and able to serve.

(~~xi~~k) That no licensed fiduciary is willing and able to serve.

(~~b~~3) The presiding judge or designated judicial officer may hold a hearing or request additional information in order to make ~~any required finding~~ the necessary findings.

(~~c~~4) If the presiding judge or designated judicial officer enters an order granting an exemption, the following restrictions apply:

(~~i~~a) Temporary appointment is effective for ~~a period of~~ up to 90 days and may be extended once~~. The presiding judge may grant one extension~~ for ~~a period of~~ up to another 90 days~~. The purpose of the temporary appointment is to allow the individual to seek and obtain licensure during this temporary appointment~~;

(~~ii~~b) If the appointee's application is not already pending, ~~The~~ the appointee must ~~apply for~~ file their fiduciary ~~licensure~~ license application with the ~~supreme court~~ division; and

(~~iii~~c) The appointee must not receive any compensation in any form ~~while the appointee is~~ for serving as a fiduciary under ~~in the capacity of an emergency exempted fiduciary~~ a temporary license exemption. ~~, except for reimbursement~~ Reimbursement for reasonable expenses ~~, subject to~~ with court approval is not prohibited.

(~~d~~5) Within ~~fifteen~~ 15 days of granting ~~the~~ a temporary license exemption ~~from licensure~~, the presiding judge or designated judicial officer must forward ~~to division staff~~ a copy of the application for exemption~~, the petition~~ and the appointment order granting the ~~emergency~~ temporary licensing exemption ~~appointment of guardian or conservator and the minute entry~~ to the division.

B. Bond Exemption. State and local governmental agencies and agency staff, including fiduciaries in the office of the public fiduciary and the Arizona Department of Veterans' Services, are not required to post the ACJA § 7-202.08(C) surety or cash bond.

Section 7-202.10: Licensing Denial

A. Mandatory Denial. In addition to the grounds for mandatory denial under ACJA § 7-201.12(A), under A.R.S. § 14-5651, the board must deny licensing if an individual applicant has been convicted of any felony.

~~4~~**B. Discretionary Denial.** ~~Decision Regarding Licensure.~~ In addition to the ~~reasons~~ grounds for discretionary denial ~~of licensure provided in~~ under ACJA § 7-201.12(~~E~~B), the board may deny licensing to an applicant:

~~a. May deny licensure:~~

~~(~~1.~~)~~ If the applicant or an officer, director, partner, member, trustee, or manager of ~~the~~ an entity applicant has been removed as a ~~court appointed~~ guardian, conservator, or personal representative for cause;

~~(~~2.~~)~~ If an officer, director, partner, member, trustee, or manager of the applicant has ~~a record of conviction by final judgment~~ been convicted of a felony.

~~3.~~ If the board finds a trainee's conduct demonstrates a lack of competence, has been the source of injury or loss, or poses a danger to the public after an investigation under ACJA § 7-201.22(A)(5).

~~b. Must deny licensure if the applicant has a record of conviction by final judgment of a felony as provided in A.R.S. § 14-5651(C)(3).~~

~~**F. Role and Responsibilities of Fiduciaries**. In addition to the requirements of ACJA § 7-201(F), the following requirements apply:~~

~~1. Code of Conduct. Each licensed fiduciary must adhere to the code of conduct in subsection (J), required by A.R.S. § 14-5651(A)(1).~~

Section 7-202.11: License Affiliation

A. **Operation.** A licensed fiduciary must operate as one of the following:

1. Affiliated with a public fiduciary;

2. Affiliated with the Arizona Department of Veterans' Services or the United States Department of Veterans Affairs;

3. Affiliated with a business entity;

4. Affiliated with another government entity; or

5. Independent of any affiliation.

~~2~~**B.** ~~Status of the Fiduciary~~ **License Designation.** The fiduciary license ~~issued by the board to the fiduciary~~ must ~~designate the status of the fiduciary as associated with a public fiduciary, associated with the Arizona Department of Veterans' Services, associated with a business entity,~~ clearly state whether the licensee operates under one of the affiliations in (A)(1) through (A)(4) or ~~acting~~ independently.

a. ~~The principal of a business entity, the office of the public fiduciary, or the Arizona Department of Veterans' Services must file with the division, by no later than June 30 of each year, a list of all licensed fiduciaries associated with the business entity, the public fiduciary, or the Arizona Department of Veterans' Services.~~

b. ~~If the status of fiduciary changes from being associated with a business entity, a public fiduciary office, or the Arizona Department of Veterans' Services, the fiduciary must, within 30 days of the change, notify the division. If the change results in an individual licensee losing an exemption under subsection (E)(2)(c), the individual licensee must satisfy the bond requirement of subsection (E)(2)(b) before acting as a fiduciary.~~

c. ~~A business entity, public fiduciary office, or the Arizona Department of Veterans' Services must notify division staff, within 30 days of a licensed fiduciary leaving the employment of the business entity, public fiduciary office, or the Arizona Department of Veterans' Services.~~

3. ~~License Number. A fiduciary must include the fiduciary's personal license number on any document filed with the superior court and the license number of any applicable business entity.~~

4. ~~Notice. On appointment, a fiduciary who is serving as a guardian or conservator must provide the following written information to the ward or protected person and all persons entitled to notice pursuant to A.R.S. §§ 14-5309 or 14-5405:~~

~~(Name of Fiduciary and/or Fiduciary Entity) holds an active fiduciary~~

~~license No. XXXX, issued by the Arizona Supreme Court, and is subject to regulation by the Arizona Supreme Court, Administrative Office of the Courts. The regulations governing licensed fiduciaries and fiduciary entities are located in the Arizona Code of Judicial Administration (ACJA) § 7-201: General Requirements and § 7-202: Fiduciaries. These administrative provisions adopted by the Arizona Supreme Court include a Code of Conduct, in ACJA § 7-202(J) that all licensed fiduciaries are required to follow. Additional information about licensed fiduciaries and their requirements may be obtained from the Administrative Office of the Courts at:~~

~~http://www.azcourts.gov~~
~~Email to PFP@courts.az.gov~~
~~Phone: (602) 452-3378~~

5. ~~A fiduciary must report and provide copies of all pertinent documents to the division within 30 days of any of the following:~~

   ~~a. Any bankruptcy, tax lien, final foreclosure, or civil judgment.~~

   ~~b. Any court removals for cause, except that a fiduciary is not required to report removal in which a party petitioned the court to substitute the fiduciary under A.R.S. §§ 14-5307 or 14-5415 and the court did not find that the fiduciary acted inappropriately.~~

   ~~c. Any court orders or sanctions issued against the fiduciary on a finding of contempt or breach of fiduciary duty including civil arrest warrants, involuntary termination of appointment, fiduciary arrest warrants, and any other court orders or sanctions issued under any court rules or Title 14, Arizona Revised Statutes, as a remedy for non-compliance by the fiduciary.~~

   ~~d. Any court order that the fiduciary engaged in vexatious conduct under Rule 10(G), *Arizona Rules of Probate Procedure*.~~

   ~~e. Any court orders issued under A.R.S. § 14-1105, in which the fiduciary is ordered to reimburse a decedent's estate or trust or a ward or protected person for professional fees or expenses incurred as a result of unreasonable conduct.~~

   ~~f. Any felony conviction.~~

6. ~~Trainees. A trainee must:~~

   ~~a. Be under the active and direct supervision of a licensed fiduciary or designated principal.~~

   ~~b. Comply with the continuing education requirements outlined in subsection (L)(b)(2).~~

~~c. Adhere to the code of conduct in subsection (J).~~

~~d. A trainee must not provide informed verbal or written consent or enter into contractual agreements on behalf of a ward, licensed fiduciary, or designated principal.~~

7. ~~Eligibility for Licensure. A trainee may apply for fiduciary licensure after serving one year of full time equivalent service as a trainee if the trainee otherwise qualifies for licensure.~~

8. ~~Supervision of Trainees. A licensed fiduciary or designated principal may supervise a trainee under the following conditions:~~

~~a. The supervising fiduciary must maintain the primary responsibility for the client or estate and must not delegate this duty to any trainee.~~

~~b. The supervising fiduciary must:~~

~~(1) Assume personal professional responsibility for the trainee's guidance in any work undertaken and for providing active and direct supervision, as necessary, over the quality of the trainee's work;~~
(2) ~~Assist the trainee in activities to the extent the fiduciary considers it necessary;~~
~~(3) Ensure that the trainee is familiar with and adheres to the provisions of this section, including the code of conduct in subsection (J), and ACJA § 7-201; and~~
~~(4) Provide the supervising fiduciary's name and license number on any documents filed in a court or tribunal prepared by the trainee under the fiduciary's supervision.~~

~~c. The trainee may perform authorized services, as set forth in statute, court orders, this section, and ACJA § 7-201, only under the supervision of the licensed fiduciary or designated principal. Neither the trainee nor the supervising fiduciary may represent that the trainee is a licensed fiduciary. The trainee may prepare a document for filing with the court, as authorized by subsection (J)(1)(d), under the supervision of the licensed fiduciary or designated principal. The trainee is not authorized to file and must not file any document with the court.~~

9. ~~Support Staff and Other Professionals. A licensed fiduciary or designated principal may, under the licensed fiduciary or designated principal's active and direct supervision, utilize support staff and other professionals to perform office functions and client services. Support staff and other professionals may be used to gather and provide necessary information to the licensed fiduciary regarding a client and to make recommendations, based on their knowledge and expertise, to the licensed fiduciary. The licensed fiduciary or designated principal may not delegate informed consent or contractual agreement decision-making authority to trainees, non-licensed staff, or other professionals.~~

~~a. "Support staff" means individuals who:~~

~~(1) Are employed by the licensed fiduciary or designated principal and perform clerical, bookkeeping, or other administrative and support duties;~~

~~(2) Do not engage in any acts requiring licensure under ACJA §§ 7-201, 7-202 or Title 14, Chapter 5, Article 7, Arizona Revised Statutes; and~~

~~(3) Are not employed as a condition of performing or with the design that they perform duties otherwise requiring licensure.~~

~~b. "Other Professionals" means individuals who are licensed in another field or discipline and who the licensed fiduciary or designated principal employs or contracts with on behalf of the ward or decedent's estate and who perform those services and acts authorized under their professional license. "Other professionals" include, but are not limited to, registered nurses, licensed nurse practitioners, certified public accountants, certified paralegals, licensed attorneys, and certified legal document preparers.~~

10. ~~Reporting of Possible Violations. A fiduciary must notify the division if the fiduciary has knowledge that another licensed fiduciary has committed misconduct raising a substantial question as to the fiduciary's honesty, trustworthiness, or qualifications as a licensed fiduciary by promptly filing a complaint under ACJA § 7-201(H).~~

Section 7-202.12: Licensed Entity; Designated Principal

A. Requirement. For protection of the public, a licensed entity must ensure that it always has a designated principal who is a licensed fiduciary able and willing to serve. A designated principal is not considered unable to serve because of short-term absences such as absences for vacation or illness.

B. Replacement. If a licensed business entity, the Arizona Department of Veterans' Services, or county board of supervisors, in the case of the Office of the Public Fiduciary, receives notice or information that the designated principal is no longer willing or able to serve as the entity's designated principal, the entity must:

1. Within 14 days of receiving the notice or information, notify the division of the name of a replacement designated principal who is qualified to serve under ACJA § 7-202.08(D)(1); and

2. Within 30 days of receiving the notice or information, execute a principal designation form and file it with the division.

C. Emergency License Suspension.

1. An entity under (B) that has not filed a replacement principal designation form with the division 30 or more days after receiving notice or information that the designated principal is unwilling or unable to serve or that at any time is found to be operating without a designated principal in violation of this section, is subject to emergency license suspension under ACJA § 7-201.29 until such time as the entity is in compliance.

2. For purposes of ACJA § 7-201.29, an entity operating without a designated principal poses

an imminent danger to the public.

D. Responsibilities. An entity's designated principal must:

1. Provide active and direct supervision of the other licensed fiduciaries, trainees, and support staff who work with wards, protected persons, or decedent estates and who work for the entity;

2. Adopt policies and procedures giving reasonable assurance that:

   a. The entity's licensed fiduciaries and trainees adhere to the rules, statutes, and provisions of this chapter applicable to fiduciaries; and

   b. Non-licensed staff conduct themselves according to the applicable rules, statutes, and provisions of this chapter.

3. Assume personal professional responsibility for ensuring that the work performed by the licensed fiduciaries, professionals, support staff, and others who provide services for wards, protected persons, or decedent estates are within the scope of their training and experience and have been delegated by the principal.

4. Ensure that at least one licensed fiduciary will assume the primary responsibility for each court appointment of the entity as guardian, conservator, or personal representative.

5. On request, provide the divisionwith a list of all licensed fiduciaries and trainees working for or representing the entity.

D. Entity Representative. In any proceeding under this chapter:

1. The designated principal may represent the entity.

2. If the proceeding involves the Department of Veterans' Services, the Department may be represented by the Department director or designated principal.

SHOWING How Proposed § 7-202.12 Revises Current § 7-202(E)(1)(b)(2) & (3)

Section 7-202.12: Licensed Entity; Designated Principal

A. Requirement. A licensed entity must ensure that it always has a designated principal who is able and willing to serve. A designated principal is not unable to serve because of short-term absences such as absences for vacation or illness.

~~(2)~~**B. Replacement** ~~of Principal~~**.** If a business entity, the Arizona Department of Veterans' Services~~;~~, or county board of supervisors, in the case of the Office of the Public Fiduciary, receives notice or information that the designated principal is no longer willing or able to serve as the designated principal, ~~it~~ the entity must:

~~(a)~~1. Within 14 days of receiving the notice or information, notify the division ~~staff~~ of the name of ~~the new~~ a replacement designated principal who is qualified to serve under ACJA § 7-202.08(D)(1)~~.~~; and

~~(b)~~2. Within 30 days of receiving the notice or information, ~~file an executed~~ execute a principal designation form ~~designating the new principal~~ and file it with the division ~~staff~~.

~~(c) Ensure the new designated principal meets the requirements of subsection (E)(1)(b)(1).~~

~~(d) A designated principal is not unable to serve due to short-term vacations or illnesses.~~

C. Emergency License Suspension.

1. An entity under (B) that has not filed a replacement principal designation form with the division 30 or more days after receiving notice or information that the designated principal is unwilling or unable to serve or that at any time is found to be operating without a designated principal in violation of this section, is subject to emergency license suspension under ACJA § 7-201.29 until such time as the entity is in compliance.

2. For purposes of ACJA § 7-201.29, an entity operating without a designated principal poses an imminent danger to the public.

~~(3)~~**D. Responsibilities** ~~of Designated Principal~~. An entity's ~~(1) The~~ designated principal must:

~~(a)~~1. Provide active and direct supervision of ~~all~~ the other licensed fiduciaries, trainees, and support staff who work with wards, protected persons, or decedent estates and who work for the ~~corporation, limited liability company, or partnership, Department of Veterans' Services, or Office of the Public Fiduciary~~ entity;

~~(b)~~2. Adopt policies and procedures giving reasonable assurance that:

a. ~~all~~ The entity's licensed fiduciaries and trainees ~~conform~~ adhere to the ~~applicable~~ rules, statutes and sections of ~~the ACJA~~ this chapter applicable to fiduciaries; and

b. ~~that non-~~Non-licensed staff conduct themselves ~~in accordance with~~ according to the applicable rules, statutes, and ~~sections~~ provisions of ~~the ACJA~~ this chapter.

~~(c)~~3. ~~In compliance with subsections F and J, delegate and assume~~ Assume personal professional responsibility for ensuring ~~the tasks~~ that the work performed by the licensed fiduciaries, professionals, support staff, and others who provide services for wards, protected persons, or decedent estates are within the scope of their training and experience and have been delegated by the principal.

~~(d)~~4. ~~Agree~~ Ensure that at least one licensed fiduciary will assume the primary responsibility for each court appointment of the entity as a guardian, conservator or personal representative.

~~(e)~~5. ~~File with~~ On request, provide the division ~~staff, by June 30 each year,~~ with a list of all licensed fiduciaries and trainees ~~acting~~ working for or ~~on behalf of~~ representing the ~~business~~ entity~~, Department of Veterans' Services, or Office of the Public Fiduciary~~.

~~(2)~~**D. Entity Representative.** In any proceeding under this chapter:

1. The designated principal may represent the ~~business~~ entity ~~or public fiduciary office in any proceeding under this section or ACJA § 7-201~~.

2. ~~The director of~~ If the proceeding involves the Department of Veterans' Services, ~~or designated principal may represent the department in any proceeding under this section or ACJA § 7-201~~ may be represented by the Department director or designated principal.

Section 7-202.13: Continuing Education

A. Purpose.

1. Court appointed fiduciaries have important responsibilities in serving vulnerable and elderly clients. Fiduciaries are required to demonstrate a basic level of competency to become licensed to practice in Arizona. This section's continuing education requirement is one way to ensure a licensed fiduciary remains competent to practice and current on changes in the fiduciary and legal professions and the Arizona judicial system.

2. This section is intended to:

   a. Ensure licensed fiduciary compliance with applicable rules, statutes, and this chapter.

   b. Provide for the even-handed application and enforcement of the continuing education requirements.

   c. Ensure compliance with the A.R.S. § 14-5651(C)(5) training requirement.

B. Continuing Education Requirement.

1. Licensed Fiduciaries.

   a. General requirement. Individual fiduciary licensees must complete at least 20 hours of qualified continuing education in the 2-year continuing education period between April 1 of each even-numbered year and March 31 of the next even-numbered year, as follows:

      (1) The licensee must complete 10 qualified continuing education hours during each 12-month period between April 1 of each year and March 31 of the next year.
      (2) At least 1.5 hours of each 10-hour annual requirement must be devoted to ethics with the remaining 8.5 hours devoted to other subjects.

   b. Initial licensing exception. The regular 2-year licensing period is from June 1 of each even-numbered year through May 31 of the next even-numbered year. The continuing education requirement for an individual fiduciary who is first licensed during the second year of the regular 2-year licensing period (i.e., between June 1 of an odd-numbered year and May 31 of the immediately following even-numbered year) is:

(1) A fiduciary initially licensed in the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year must complete a total of 10 hours of continuing education during that 6-month period with at least 1.5 hours devoted to ethics and the remaining 8.5 hours devoted to other subjects.

(2) A fiduciary initially licensed in the 3-month period between December 31 and March 31 of an even-numbered year must complete 5 hours of continuing education credit during that 3-month period with at least 1 hour devoted to ethics and the remaining 4 hours devoted to other subjects.

(3) Following renewal of the initial license, these licensees must comply with the general requirement under (B)(1)(a).

c. Exception inapplicable. The exception in (B)(1)(b) does not apply to a fiduciary whose license lapsed but was later re-licensed during the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year. In that case, the licensee must complete the full 20-hour continuing education requirement with 3 hours devoted to ethics and the remaining 7 hours devoted to other subjects.

2. Trainees.

a. Trainees must complete 10 hours of qualified continuing education during each 12-month period in which they are registered as trainees beginning with their date of registration.

b. Of the 10-hour annual requirement, at least 1.5 hours each year must be devoted to ethics with the remaining 8.5 hours devoted to other subjects.

3. Non-transferable. Continuing education hours completed in excess of the applicable requirement are not transferable to any period other than the one in which they were completed.

4. Eligible Time.

a. The time in attendance at a qualified continuing education activity that may be counted to satisfy an individual licensee's or trainee's annual requirement is the "actual clock time."

b. "Actual clock time" is the total hours attended minus the time spent for introductory remarks, breaks, meals, and business meetings.

c. A qualified continuing education activity must include at least 30 minutes or 0.5 hours of "actual clock time."

d. After the initial 30 minutes of "actual clock time," credit may be earned in increments of at least 15 minutes or 0.25 hours.

e. A fiduciary must complete or attend the entire continuing education activity to receive any credit. There is no partial credit for attending less than all of a continuing education activity, except that a fiduciary may receive continuing education credit for courses offered by educational institutions if their attendance satisfies the institution's requirement for receiving course credit.

C. Compliance.

1. Responsibility. Licensees and trainees are responsible for monitoring their own compliance with the continuing education requirement, including maintaining documentation of continuing education hours completed.

2. Documentation. Fiduciaries and trainees obtain documentation about their continuing education activities from the sponsor of the activity, including documentation of:

a. The sponsor's name;

b. The name, date, and location of the activity;

c. The licensee's or trainee's registration as an attendee;

d. The activity's subject matter and content, including materials provided to attendees;

e. The activity's program or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings;

f. The licensee's or trainee's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and

g. An official document from the sponsor signifying the licensee's or trainee's completion of the activity including, for example, a certificate of completion or grade report.

3. Reporting.

a. Licensee. A licensed fiduciary must affirm continuing education compliance when applying for license renewal.

b. Trainee. A trainee must affirm continuing education compliance at the time and in the manner directed by the division.

c. Format. The licensee's or trainee's affirmation of continuing education compliance must be in the format directed by the division and must either:

(1) Include the licensee's or trainee's signature in the space specifically provided on the form for this purpose; or
(2) The licensee or trainee may sign across the official document from the sponsor signifying the licensee's or trainee's completion of the activity under (C)(2)(g).

d. On request. A licensee or trainee must provide additional information about continuing education compliance as requested by the board or division, including documentation about continuing education compliance in a prior licensing period from:

(1) A former licensee applying for a new license after their previous license expired without renewal;
(2) A fiduciary seeking license reactivation from inactive status under ACJA § 7-201.17(C); or
(3) A fiduciary or former licensee seeking reinstatement after suspension or revocation.

4. Board review and decision.

a. Findings. After reviewing continuing education documentation and any applicable additional information requested, the board may:

(1) Find compliance with the continuing education requirement;
(2) Require additional information from the fiduciary seeking renewal before making a decision;
(3) Find partial compliance with the continuing education requirement and order remedial measures; or
(4) Enter a finding of non-compliance.

b. Notice. Within 10 days of the board's decision, the division must give the fiduciary written notice of the board's decision and the reasons for the decision.

c. Review.

(1) If the board finds full or partial compliance or non-compliance with the continuing education requirements:
  (a) The fiduciary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
  (b) A request for board review includes a request to address the board in response.
  (c) By making a request to address the board, the fiduciary also agrees to respond to board questions under oath or affirmation at the board meeting.
  (d) Upon receiving a timely request for review, the division must notify the board chair of the need to place the matter on the board's agenda.
(2) There is no review of a request for additional information.
(3) Upon submission of a timely request for review, the fiduciary's existing license

does not expire during board review if the board decision concerns compliance with the license renewal requirements.

(4) After hearing from the fiduciary and reviewing its decision, the board must issue a written, final decision.

D. Qualified Continuing Education.

1. Required subjects.

a. General areas. Continuing education activity must:

(1) Address the areas of proficiency, competency, and performance of a fiduciary;
(2) Convey knowledge and increase understanding of the fiduciary profession, the Arizona judiciary, or the legal process; and
(3) Increase awareness of the fiduciary's responsibilities and the fiduciary's impact on the judicial process and the public.

b. Subjects. Continuing education activity must include one or more of the following subjects:

(1) Guardianships;
(2) Conservatorships;
(3) Personal representatives;
(4) Trust administration;
(5) Powers of attorney;
(6) Mental health;
(7) The Arizona court system, including the state and federal constitutions, the separate branches of government, Arizona court jurisdiction, the role of judges, and the Arizona tribal court system;
(8) The Arizona Revised Statutes, Arizona Rules of Court, this chapter, case law, administrative orders, and current issues in the Arizona court system relevant to the fiduciary profession;
(9) The role and responsibilities of the fiduciary, including as specified in this chapter;
(10) Management issues, including office practices, public relations, customer service, accounting, time management, human resources, financial planning, and stress management; and
(11) Ethics for fiduciaries, including cooperation with lawyers, judges, and other fiduciaries; professional attire; courtesy; impartiality to all litigants; information vs. legal advice; and public relations.

2. Qualified activities.

a. Activities offered by qualified entities. Programs, seminars, and courses of study approved by the division or provided by the following entities are qualified continuing education activities if they comply with the other requirements of this section:

(1) Fiduciary Certification Program (FCP);
(2) The National Guardianship Association (NGA);
(3) Arizona Fiduciaries Association (AFA);
(4) National Association of Court Management (NACM);
(5) State Bar of Arizona, Probate Law and Trust Section;
(6) State Bar of Arizona, Mental Health and Elder Law Section;
(7) National Academy of Elder Law Attorneys (NAELA);
(8) National Association of Geriatric Care Managers (NAGCM);
(9) National College of Probate Judges; and
(10) National Association of Social Workers (NASW).

b. Conferences. A fiduciary may satisfy all of a current year's continuing education requirement by attending a conference sponsored by an entity listed in (E)(1) if the requirements of this section are satisfied, including the subject matter, "actual clock time," ethics, and documentation requirements.

c. Educational institutions**.** A fiduciary may receive no more than 50% of the total number of required continuing education credit hours in a 2-year period by achieving a passing grade in a course provided by a university, college, or other accredited educational institution. A passing grade is a "C" or better or a grade of "pass" in a pass/fail system. Credit is awarded by multiplying the number of credit hours earned by 2.

d. Authoring or coauthoring articles. A fiduciary may receive up to 1 hour of continuing education credit in every 2-year continuing education period for authoring or coauthoring an article of at least 1,000 words on the fiduciary profession published in a state or nationally recognized professional journal about the fiduciary profession or the law. A fiduciary may only receive credit for one publication of an article.

e. Self-study. A fiduciary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. A fiduciary may receive no more than 50% of the total number of required continuing education credit hours in a 2-year period through self-study. The remaining hours must be earned through "live training" involving instruction by one or more faculty or facilitators to an individual or a group using real-time interaction.

f. Teaching.

(1) A fiduciary may receive up to 10 hours of continuing education credit in each 2-year continuing education period for serving as an instructor, speaker, faculty, or panel member in a continuing education activity about the fiduciary profession as follows:
(a) The fiduciary is allowed credit for the actual presentation time; and
(b) The fiduciary may also receive up to 2 hours of actual preparation time for each hour of original presentation time.
(2) For subsequent presentations, a fiduciary:

(a) Is not allowed any credit for subsequent presentations of the same program during the same 2-year continuing education period.

(b) May receive continuing education credit for actual presentation time for duplicate programs presented in a different 2-year continuing education period but will not receive continuing education credit for preparation time for those duplicate programs.

E. Non-Qualifying Activities. The following activities do not qualify for continuing education credit:

1. Activities completed to qualify for initial licensing.

2. Activities primarily focused on teaching nonverbal skills not directly associated with the fiduciary profession.

3. Attending or participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation.

4. Serving as a member of a committee or council of, or as an officer in, a professional organization.

5. Activities required by the board as part of disciplinary action.

6. Activities ordered by a judicial officer.

7. Serving as a mentor or supervisor.

8. Repeating a qualified activity within the same 2-year continuing education period unless an exception is granted by the board and only if the activity directly involves the fiduciary profession and duplicating the activity will enhance the fiduciary's knowledge, skill, and competency.

F. Extension or Waiver. A fiduciary seeking license renewal who has not fully complied with the continuing education requirement may request an extension or waiver of the requirement under this section instead of ACJA § 7-201.07(B).

1. A fiduciary seeking an extension or waiver of all or part of the continuing education requirement must file a written request for an extension or waiver with the division no later than March 31 of the 12-month continuing education period for which the extension or waiver is sought.

2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:

a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the fiduciary's ability to fully comply with the continuing education requirements for that period;

b. Be signed and dated by the fiduciary; and

c. Include, immediately above the fiduciary's signature, the following statement: "I, [printed name of fiduciary], affirm that my statements and the information in my request for extension or waiver are true and correct and given under penalty of perjury."

3. The division must review the written request and make a recommendation to the board.

4. If the board finds the fiduciary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:

a. Grant a one-time extension of up to 90 days for the fiduciary to complete the continuing education requirement; or

b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.

5. In determining whether extenuating circumstances exist to support a requested extension or waiver of the continuing education requirement, the board must consider whether the fiduciary has been unable to devote sufficient hours to fulfill the continuing education requirement because of:

a. Full-time service in the armed forces of the United States during a substantial part of the licensing period;

b. An incapacitating illness as documented by a statement from a currently licensed physician treating the fiduciary;

c. A physical inability to access qualified activities as documented by a statement from a currently licensed physician treating the fiduciary;

d. The fiduciary's retirement from the fiduciary profession and the fiduciary is no longer performing any fiduciary services; or

e. Any other special circumstances the board deems appropriate.

6. A fiduciary whose license is under restriction, probation, suspension, or has been revoked by the board is not eligible to request a waiver or extension.

G. Random Compliance Audits. The division may randomly select at least 10 percent of individual fiduciary renewal applications to audit compliance with continuing education requirements. A licensee's failure to respond to, or refusal to comply with, a continuing education compliance audit-related request from the board or division may result in denial of renewal or disciplinary action.

H. Failure to Comply. A fiduciary who fails to complete the continuing education requirement, fails to complete any portion of the continuing education requirement by the deadline, falsifies documents, or misrepresents attendance may result in denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-202.28(C)(7).

SHOWING How Proposed § 7-202.13 Revises Current § 7-202(L)(2)

Section 7-202.13: Continuing Education

~~L. Continuing Education Policies.~~

~~1~~A. Purpose.

~~a~~1. Court appointed fiduciaries have important responsibilities in serving vulnerable and elderly clients. Fiduciaries are required to demonstrate a basic level of competency to become licensed ~~and~~ to practice in Arizona. This section's ~~Ongoing~~ continuing education requirement is one ~~means~~ way to ensure a licensed fiduciary ~~maintains continuing competence in the fiduciary field after licensure is obtained. It also provides opportunities for fiduciaries to keep abreast of~~ remains competent to practice and current on changes in the fiduciary and legal professions and the Arizona judicial system.

~~b~~2. ~~These continuing education provisions are~~ This section is intended to: ~~provide direction to licensed fiduciaries, to~~

a. ~~ensure~~ Ensure licensed fiduciary compliance with applicable rules, statutes ~~including A.R.S. § 14-5651(C)(5), court rules, this section,~~ and this chapter ~~ACJA § 7-201 and to provide for equitable application and enforcement of the continuing education requirements~~.

b. Provide for the even-handed application and enforcement of the continuing education requirements.

c. Ensure compliance with the A.R.S. § 14-5651(C)(5) training requirement.

B. Continuing Education Requirement.

1. Licensed Fiduciaries.

2. ~~Applicability.~~

a. General requirement. ~~All licensed fiduciaries~~ Individual fiduciary licensees must complete ~~a minimum of~~ at least ~~10~~ 20 hours of ~~approved~~ qualified continuing education ~~during~~ in the ~~12-month~~ 2-year continuing education period between ~~each~~ April 1 of each even-numbered year and March 31 of the ~~following~~ next even-numbered year, as follows: ~~for a total of no fewer than 20 hours of continuing education by no later than March 31 of every even-numbered year. The continuing education requirements do not apply to fiduciary entities.~~

(1) The licensee must complete ~~Of the~~ 10 qualified continuing education hours ~~of continuing education~~ during each 12-month period between April 1 of each calendar year and March 31 of the next calendar year~~,~~.

(2) ~~at~~ At least 1.5 hours of each ~~year~~ 10-hour annual requirement must be devoted to ethics ~~as provided in subsection (L)(4)(b)(11). Hours used to satisfy the ethics requirement may not also count against~~ with the remaining ~~7.5~~ 8.5 hours devoted to other subjects ~~of each year's required continuing education hours. Excess continuing education hours completed in a year are not transferable to any year other than the one in which they were completed~~.

b. Initial licensing exception. The regular 2-year licensing period is from June 1 of each even-numbered year through May 31 of the next even-numbered year. The continuing education requirement for an individual fiduciary who is first licensed during the second year of the regular 2-year licensing period (i.e., between June 1 of an odd-numbered year and May 31 of the immediately following even-numbered year) is:

(1) A fiduciary initially licensed in the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year must complete a total of 10 hours of continuing education during that 6-month period with at least 1.5 hours devoted to ethics and the remaining 8.5 hours devoted to other subjects.

(2) A fiduciary initially licensed in the 3-month period between December 31 and March 31 of an even-numbered year must complete 5 hours of continuing education credit during that 3-month period with at least 1 hour devoted to ethics and the remaining 4 hours devoted to other subjects.

(3) Following renewal of the initial license, these licensees must comply with the general requirement under (B)(1)(a).

c. Exception inapplicable. The exception in (B)(1)(b) does not apply to a fiduciary whose license lapsed but was later re-licensed during the 6-month period between June 1 of an odd-numbered year and December 31 of the immediately following even-numbered year. In that case, the licensee must complete the full 20-hour continuing education requirement with 3 hours devoted to ethics and the remaining 7 hours devoted to other subjects.

2. Trainees.

a. ~~All trainees~~ Trainees must complete ~~a minimum of~~ 10 hours of ~~approved~~ qualified continuing education during each ~~year~~ 12-month period in which they are registered as trainees beginning with their date of registration.

b. ~~of which~~ Of the 10-hour annual requirement, at least 1.5 hours each year must be devoted to ethics ~~as provided in subsection (L)(4)(b)(11)~~with the remaining 8.5 hours devoted to other subjects.

3. ~~Responsibilities of Fiduciaries.~~ Non-transferable. Continuing education hours completed in excess of the applicable requirement are not transferable to any period other than the one in which they were completed.

4. Eligible Time.

a. The time in attendance at a qualified continuing education activity that may be counted to satisfy an individual licensee's or trainee's annual requirement is the "actual clock time."

b. "Actual clock time" is the total hours attended minus the time spent for introductory remarks, breaks, meals, and business meetings.

c. A qualified continuing education activity must include at least 30 minutes or 0.5 hours of "actual clock time."

d. After the initial 30 minutes of "actual clock time," credit may be earned in increments of at least 15 minutes or 0.25 hours.

e. A fiduciary must complete or attend the entire continuing education activity to receive any credit. There is no partial credit for attending less than all of a continuing education activity, except that a fiduciary may receive continuing education credit for courses offered by educational institutions if their attendance satisfies the institution's requirement for receiving course credit.

C. Compliance.

1. Responsibility. ~~a. It is the responsibility of each fiduciary to ensure~~ Licensees and trainees are responsible for monitoring their own compliance with the continuing education ~~requirements~~ requirement, including maintaining documentation of continuing education hours completed.

2. Documentation. Fiduciaries and trainees must obtain documentation about their continuing education activities from the sponsor of the activity, including documentation of:

   a. The sponsor's name;

   b. The name, date, and location of the activity;

   c. The licensee's or trainee's registration as an attendee;

   d. The activity's subject matter and content, including materials provided to attendees;

   e. The activity's program or schedule showing time allotted to introductory remarks, breaks, meals, and business meetings;

   f. The licensee's or trainee's "actual clock time" for the activity and, if different from the "actual clock time," the number of credit hours awarded by the sponsoring entity for full attendance; and

   g. An official document from the sponsor signifying the licensee's or trainee's completion of the activity including, for example, a certificate of completion or grade report.

3. Reporting.

   a. Licensee. A licensed fiduciary must affirm continuing education compliance when applying for license renewal.

b. Trainee. A trainee must affirm continuing education compliance at the time and in the manner directed by the division.

c. Format. The licensee's or trainee's affirmation of continuing education compliance must be in the format directed by the division and must either:

(1) Include the licensee's or trainee's signature in the space specifically provided on the form for this purpose; or

(2) The licensee or trainee may sign across the official document from the sponsor signifying the licensee's or trainee's completion of the activity under (C)(2)(g).

~~b~~d. ~~Upon~~ On request~~,~~. ~~each fiduciary~~ A licensee or trainee must provide ~~any~~ additional information ~~required~~ about continuing education compliance as requested by the board or division ~~staff when reviewing the application for renewal of licensure~~, including documentation about continuing education ~~applications, and other documentation~~ compliance in a prior licensing period from:

(1) A former licensee applying for a new license after their previous license expired without renewal;
(2) A fiduciary seeking license reactivation from inactive status under ACJA § 7-201.17(C); or
(3) A fiduciary or former licensee seeking reinstatement after suspension or revocation.

~~c. Continuing education not recognized for credit upon board review does not relieve the fiduciary of the responsibility to complete the required hours of continuing education.~~

4. Board review and decision.

a. Findings. After reviewing continuing education documentation and any applicable additional information requested, the board may:

(1) Find compliance with the continuing education requirement;
(2) Require additional information from the fiduciary seeking renewal before making a decision;
(3) Find partial compliance with the continuing education requirement and order remedial measures; or
(4) Enter a finding of non-compliance.

b. Notice. Within 10 days of the board's decision, the division must give the fiduciary written notice of the board's decision and the reasons for the decision.

c. Review and decision.

(1) If the board finds full or partial non-compliance with the continuing education requirements:
(a) The fiduciary may submit a written request for board review in the manner required for requests under ACJA § 7-201.28(A)(2).
(b) A request for board review includes a request to address the board in response.
(c) By making a request to address the board, the fiduciary also agrees to respond to board questions under oath or affirmation at the board meeting.
(d) Upon receiving a timely request for review, the division must notify the board chair of

the need to place the matter on the board's agenda.

(2) There is no review of a request for additional information.

(3) Upon submission of a timely request for review, the fiduciary's existing license does not expire during board review if the board decision concerns compliance with the license renewal requirements.

(4) After hearing from the fiduciary and reviewing its decision, the board must issue a written, final decision.

4D. ~~Authorized~~ Qualified Continuing Education ~~Activities~~ Activity.

1. Required subjects.

a. General areas. Continuing education activity must:

(1) ~~address~~ Address the areas of proficiency, competency, and performance of a fiduciary;
(2) ~~and impart~~ Convey knowledge and increase understanding of the fiduciary profession, the Arizona judiciary, or the legal process.;
(3) ~~Continuing education must increase the understanding~~ Increase awareness of the fiduciary's responsibilities and the fiduciary's impact on the judicial process and the public.

b. Subjects. Continuing education activity must include one or more of the following subjects:

(1) Guardianships;
(2) Conservatorships;
(3) Personal representatives;
(4) Trust administration;
(5) Power of attorney;
(6) Mental health;
(7) The Arizona court system, including the state and federal constitution, the separate branches of government, Arizona court jurisdiction, the role of judges, and the Arizona tribal court system;
(8) The Arizona Revised Statutes, Arizona Rules of Court, this ~~section, ACJA § 7-201~~ chapter, case law, administrative orders, and current issues in the Arizona court system relevant to the fiduciary profession;
(9) The role and responsibilities of the fiduciary, including~~, but not limited to, this section, ACJA § 7-201, and the code of conduct~~ as specified in this chapter;
(10) Management issues, including office practices, public relations, customer service, accounting, time management, human resources, financial planning, and stress management; and
(11) Ethics for fiduciaries, including cooperation with lawyers, judges, and ~~fellow~~ other fiduciaries; professional attire; courtesy; impartiality to all litigants; information vs. legal advice; and public relations.

2. Qualified activities.

~~e~~a. ~~Accredited~~ Activities offered by qualified entities. ~~Subject to the conditions specified in this policy, programs,~~ Programs, seminars, and courses of study ~~offered or approved~~ approved by the division or provided by the following entities are ~~considered accredited~~ qualified continuing education activities if they comply with the other requirements of this section:

(1) Fiduciary Certification Program (FCP);
(2) The National Guardianship Association (NGA);

(3) Arizona Fiduciaries Association (AFA);
(4) National Association of Court Management (NACM);
(5) State Bar of Arizona, Probate Law and Trust Section;
(6) State Bar of Arizona, Mental Health and Elder Law Section;
(7) National Academy of Elder Law Attorneys (NAELA);
(8) National Association of Geriatric Care Managers (NAGCM);
(9) National College of Probate Judges; and
(10) National Association of Social Workers (NASW).

~~d~~b. Conferences. ~~If~~ A fiduciary may satisfy all of a current year’s continuing education requirement by attending a conference ~~is~~ sponsored by ~~organizations or entities~~ an entity listed in ~~subsection (L)(4)(c),~~ (E)(1) ~~a fiduciary may satisfy all of that year’s continuing education~~ if the requirements ~~at the conference, providing that the fiduciary satisfies the 1.5-hour ethics requirement~~ of this section are satisfied, including the subject matter, “actual clock time,” ethics, and documentation requirements. ~~Introductory remarks, breaks, meals, business meetings, and general sessions of a conference do not qualify as continuing education hours. The fiduciary must obtain documentation of the specific sessions of the conference attended.~~

~~e~~c. ~~University, College and Other~~ Educational ~~Institution Courses~~ institutions. A fiduciary may receive no more than 50% of the total number of required continuing education credit hours in a 2-year period by achieving a passing grade in ~~continuing education credit for completing~~ a course provided by a university, college or other accredited educational institution. ~~with a~~ A passing grade ~~of~~ is a ~~"C"~~ “C” or better or a grade of ~~"pass" on~~ “pass” in a pass/fail system. Credit is awarded by multiplying the number of credit hours ~~awarded~~ earned ~~by the educational institution~~ by two. ~~However, the maximum continuing education credits for completion of such courses must not exceed 50 percent of the total number of continuing education hours required for the renewal period.~~

~~f~~d. Authoring or ~~Coauthoring Articles~~ coauthoring articles. A fiduciary may receive up to 1 hour of continuing education credit in every 2-year continuing education period for authoring or coauthoring an article ~~directly related to~~ of at least 1,000 words on the fiduciary profession ~~and~~ published in a state or nationally recognized professional journal ~~relevant to~~ about the fiduciary profession or the law~~, if the article is a minimum of 1,000 words in length~~. A fiduciary may ~~earn a maximum of one hour of continuing education~~ only receive credit for ~~authoring an article or articles in any~~ one ~~renewal period. A fiduciary may not receive credit for the same article published in more than one publication or republished in the same~~ publication ~~in later editions~~ of an article.

~~g~~e. Self-Study. A fiduciary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. ~~The maximum hours of continuing education credits earned in a self-study format must not exceed~~ A fiduciary may receive no more than 50 ~~percent~~ % of the total number of required continuing education credit hours ~~required during the certification~~ in a 2-year period through self-study. The remaining hours must be ~~obtained~~ earned through “live training” ~~or education provided~~ involving instruction by one or more faculty or facilitators to an individual or a group using real-time interaction ~~(“live training”)~~.

~~h~~f. ~~Serving as Faculty~~ Teaching.

(1) A fiduciary may receive up to 10 hours of continuing education credit in each 2-year continuing education period for serving as an instructor, speaker, faculty, or panel member ~~of~~ in a continuing education ~~seminar directly related to~~ activity about the fiduciary profession as follows~~.~~:

(a) The fiduciary ~~may receive~~ is allowed credit for the actual presentation time~~,~~ and

(b) ~~plus~~ The fiduciary may also receive up to ~~two~~ 2 hours of actual preparation time for each hour of original presentation time.

(2) For subsequent presentations, ~~A~~ a fiduciary:

(a) ~~may receive a maximum of ten hours of continuing education~~ Is not allowed any credit for ~~serving as faculty in any renewal~~ subsequent presentations of the same program during the same 2-year continuing education period~~;~~.

(b) ~~however, a fiduciary may not~~ May receive continuing education credit for ~~subsequent presentations of a program during the renewal~~ actual presentation time for duplicate programs presented in a different 2-year continuing education period~~. A fiduciary may receive continuing education credit for actual presentation time for duplicate programs presented in subsequent renewal periods~~ but will not receive continuing education credit for preparation time for those ~~duplicated~~ duplicate programs.

~~i. Mentoring Activities. A fiduciary will not receive credit for mentoring activities.~~

5. ~~Minimum Time. Each continuing education activity must consist of at least 30 minutes of "actual clock time" spent by a registrant in actual attendance at and completion of an approved continuing education activity. "Actual clock time" is the total hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the initial 30 minutes of continuing education activity, a fiduciary may receive credit in fifteen minute increments.~~

~~6~~**E. Non-Qualifying Activities.** ~~a.~~ The following activities do not qualify for continuing education credit:

(1~~)~~ ~~Programs~~Activities completed to qualify for initial ~~licensure~~licensing;~~.~~

~~(~~2~~.)~~ ~~Programs with a primary focus~~ Activities primarily focused on teaching nonverbal skills not directly ~~related to~~ associated with the fiduciary profession;

~~(~~3~~.)~~ ~~Attendance~~ Attending or ~~participation at~~ participating in professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation;

~~(~~4~~.)~~ Serving ~~on committees~~ as a member of a committee or ~~councils~~ council of, or as an officer in, a professional organization~~;~~.

~~(~~5~~.)~~ Activities ~~completed as~~ required by the board as part of disciplinary action;~~.~~

~~(~~6~~.)~~ ~~Any activity~~ Activities ~~completed as~~ ordered by a judicial officer~~; and~~.

~~(~~7~~.)~~ ~~Activities during which the fiduciary serves~~ Serving as a mentor or supervisor.

~~B~~8. ~~Repeat of an Activity. Generally, a fiduciary may not receive credit for repeating an~~ Repeating a qualified activity within the same ~~renewal~~ 2-year continuing education period unless an exception is granted by the board~~. Exceptions are permissible~~ and only if the activity ~~is~~ directly ~~related to~~ involves the fiduciary profession and ~~duplication of~~ duplicating the ~~continuing education~~ activity will enhance the fiduciary's knowledge, skill, and competency.

~~c. Attendance. A fiduciary must not claim and will not receive credit for attending part, but not all, of an activity.~~

~~7. Documentation of Attendance or Completion. When attending or completing a continuing education activity, a fiduciary must obtain documentation of attendance or completion from the sponsoring entity that must include at least all of the following:~~

~~a. Name of the sponsor;~~

~~b. Name of the participant;~~

~~c. Topic of the subject matter;~~

~~d. Number of hours actually attended or the number of credit hours awarded by the sponsoring entity;~~

~~e. Date and place of the program;~~

~~f. Signature of the sponsor, or documentation representing an official document of the sponsoring entity; for example, a college grade report, etc.; and~~

~~g. Signature of the fiduciary, either in the space specifically provided on the form for this purpose or the fiduciary may sign across the documentation (for example, the college grade report) to indicate attendance and completion of the activity.~~

~~8. Compliance and Non-Compliance.~~

~~a. Affirmation of Compliance. A fiduciary must affirm continuing education compliance when applying for renewal of licensure. The affirmation must be in the format provided by the division.~~

~~b. Proration of Continuing Education. A fiduciary initially licensed during the 6-month period between June 1 and December 31 of the second year of the regular licensure period must complete a total of 10 hours of continuing education credit for that 6-month period, including at least 1.5 hours of ethics. A fiduciary initially licensed during the 3-month period between December 31 and March 31 of the second year of the licensure period must complete 5 hours of continuing education credit for that 3-month period, including at least 1 hour of ethics. In subsequent licensure periods, the fiduciary must comply with (L)(2)(a).~~

~~(1) This proration provision does not apply to a fiduciary who previously held licensure, allowed the licensure to lapse, and subsequently applied for and was granted licensure during the 6-month period between June 1 and December 31 of the second year of the regular licensure period.~~

~~(2) A fiduciary who previously held licensure, allowed the licensure to lapse, and subsequently applied for and was granted licensure during the 6-month period between June 1 of the second year and December 31 of the second year of the regular licensure period is subject to the full 20-hour continuing education requirement 3 hours of which must be devoted to~~

~~ethics as provided in subsection (L)(4)(b)(11).~~

~~e~~**F. Extension or Waiver ~~of Continuing Education Requirements~~.** A fiduciary seeking license renewal ~~of licensure~~ who has not fully complied with the continuing education ~~requirements~~ requirement may request an extension or waiver of the ~~continuing education requirements~~ requirement under ~~the following conditions~~ this section instead of ACJA § 7-201.07(B)~~:~~.

~~(~~1.~~)~~ ~~No later than March 31 of the 12-month period in which the extension or waiver is sought, the~~ A fiduciary seeking an extension or waiver of all or part of the continuing education requirement must ~~submit an affirmation to the board stating the facts and circumstances negatively impacting the fiduciary's ability to fully comply with the continuing education requirements for that period and requesting an~~ file a written request for an extension or waiver ~~of the requirements. On a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the fiduciary to complete the continuing education requirement~~with the division no later than March 31 of the 12-month continuing education period for which the extension or waiver is sought.

2. A written request for an extension of time to comply with the continuing education requirement or a waiver of the requirement for the 12-month continuing education period must:

   a. Include a detailed explanation of the facts supporting a finding of the extenuating circumstances that negatively impact the fiduciary's ability to fully comply with the continuing education requirements for that period;

   b. Be signed and dated by the fiduciary; and

   c. Include, immediately above the fiduciary's signature, the following statement: "I, [printed name of fiduciary], affirm that my statements and the information in my request for extension or waiver are true and correct and given under penalty of perjury."

3. The division must review the written request and make a recommendation to the board.

4. If the board finds the fiduciary has demonstrated extenuating circumstances, the board may, as it finds appropriate under the circumstances:

   a. Grant a one-time extension of up to 90 days for the fiduciary to complete the continuing education requirement; or

   b. Waive all or part of the continuing education requirement for the 12-month continuing education period under specified terms and conditions.

~~(2~~5.~~)~~ ~~The board must determine whether extenuating circumstances exist.~~ In ~~reviewing the request~~ determining whether extenuating circumstances exist to support a requested extension or waiver of the continuing education requirement, the board must consider ~~if~~ whether the fiduciary has been unable to devote sufficient hours to fulfill the continuing education ~~requirements~~ requirement because of:

   ~~(~~a.~~)~~ Full-time service in the armed forces of the United States during a substantial part of the ~~licensure~~ licensing period;

~~(~~b~~.)~~ An incapacitating illness as documented by a statement from a currently licensed physician treating the fiduciary;

~~(~~c~~.)~~ A physical inability to ~~obtain approved programs~~ access qualified activities as documented by a statement from a currently licensed physician treating the fiduciary;

~~(~~d~~.)~~ The fiduciary's retirement from the fiduciary profession ~~and not~~ if the fiduciary is no longer performing any fiduciary services; or

~~(~~e~~.)~~ Any other special circumstances the board deems appropriate.

~~(3)~~ 6. A fiduciary whose license ~~has been restricted, suspended,~~ is under restriction, suspension, or has been revoked by the board is not eligible to request a waiver or extension.

~~d~~**G. Random Compliance Audits** ~~of Continuing Education Compliance~~**.** ~~During each renewal review period,~~ The division ~~staff must~~ may randomly select at least 10 percent of fiduciary renewal applications ~~for~~ to audit ~~of~~ compliance with the continuing education ~~requirements~~ requirement. ~~Refusal or~~ A licensee's failure to respond to, or refusal to comply with, a ~~request from the board or division staff for requested documentation of~~ continuing education compliance audit-related request from the board or division may result in denial of license renewal ~~of licensure~~ or disciplinary action ~~pursuant to ACJA § 7-201 and this section~~.

~~e~~**H. Failure to Comply.** A fiduciary who fails to complete the continuing education requirement, ~~completes~~ fails to complete any portion of the continuing education requirement ~~late~~ by the deadline, falsifies documents, or misrepresents attendance ~~or an activity is subject to any or all of the following actions of the board:~~ may result in denial of license renewal and disciplinary action and sanctions under ACJA § 7-201.30, including assessment of the delinquent continuing education fee under ACJA § 7-202.28(C)(7).

~~(1) Assessment of the delinquent continuing education fee;~~
~~(2) Denial of renewal of licensure; and~~
~~(3) Disciplinary action under ACJA § 7-201(H) and this section.~~

~~9. Board Decision Regarding Continuing Education Compliance.~~

~~a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:~~

~~(1) Recognize fiduciary compliance with the continuing education requirement;~~
~~(2) Require additional information from the fiduciary seeking renewal before making a decision;~~
~~(3) Recognize partial compliance with the requirement and order remedial measures; or~~
~~(4) Enter a finding of non-compliance.~~

~~b. Division staff must notify the fiduciary, in writing, within ten days of the board's decision. A fiduciary may appeal the decision of the board by submitting a written request for review to the division within 15 days of the date of the notice of the board's decision. The fiduciary may request to appear before the board at the next available regularly scheduled board meeting.~~

~~c. The license of a fiduciary who timely appeals a decision by the board regarding continuing education will remain active until a final decision is made by the board.~~

~~d. The board must issue a written decision on the appeal. The decision is final and binding.~~

~~10. In addition to the provisions of this subsection, the board may require a fiduciary who allows his or her license to lapse or who has been in an inactive status to provide documentation of completion of the required number of continuing education credits for the prior licensure period.~~

Section 7-202.14: License Renewal

~~G~~A. **Authority~~Renewal of Licensure~~.** Fiduciary license renewal is governed by ~~In addition to the requirements of~~ ACJA § 7-201.19~~(G), the following requirements apply~~ and this section~~:~~.

B. Timing.

1. Expiration ~~Date~~ date. ~~All~~ Fiduciary licenses expire at midnight on May 31~~st~~ of each even-numbered year.

2. Timely filing. By timely filing a complete license renewal application, the licensee's existing license does not expire during the renewal process. A fiduciary licensee's renewal application is timely if ~~submitted~~ filed with the division ~~during the month of~~ from April 1 through April 30 of each even-numbered year or, if the licensee receives a one-time extension under ACJA § 7-201.07(B), by the extended deadline. ~~A renewal application submitted during the month of May or later in each even-numbered year will be assessed a late renewal fee under subsection (K)(3)(d).~~

C. **Renewal Application.** In addition to completing the renewal application form specified by the division, the following requirements apply to fiduciary license renewal applications.

1. Late fee. The late fee under ACJA § 7-202.33(K) must be paid:

   a. When a licensee files an untimely renewal application under ACJA § 7-201.19(C).

   b. When a licensee files a renewal application after their license expires.

~~3~~2. Continuing Education. ~~By no later than March 31 of each even-numbered year, all licensed fiduciaries and trainees must complete the continuing education hours in compliance with subsection (L).~~ A licensed fiduciary must affirm continuing education compliance under ACJA § 7-202.13(C)(3) when applying for license renewal.

~~4~~3. Business entities. ~~All~~ A business ~~entities~~ entity's license ~~seeking~~ renewal ~~of licensure~~ application must include a letter of good standing from either the Arizona Corporation Commission or the Arizona Secretary of State~~, as applicable, with the application for renewal~~ as determined by the type of business entity.

~~5~~**D. ~~Decision Regarding~~ Renewal Decision.** ~~In addition to the reasons for denying renewal of licensure provided in ACJA § 7-201(G), the board:~~

~~a~~1. ~~May deny renewal of licensure:~~ The grounds for granting or denying fiduciary license renewal are as stated in ACJA §§ 7-201.09, 7-201.12, 7-202.05, and 7-202.10 for granting or denying an initial license.

~~(1) If the applicant or an officer, director, partner, member, trustee, or manager of the applicant was removed as a court appointed guardian, conservator, or personal representative for cause.~~

~~(~~2.~~)~~ ~~The~~ Additional grounds for denial of license renewal are:

a. If a court issued an order or sanction, including issuing civil or fiduciary arrest warrants, against the fiduciary on a finding of contempt or breach of fiduciary duty regarding the administration of a guardianship, conservatorship, or estate ~~including, but not limited to, the issuance of civil arrests warrants, fiduciary arrest warrants,~~; or

b. If a court ~~finding that~~ has found the fiduciary engaged in vexatious conduct.

~~(3) If an officer, director, partner, member, trustee, or manager of the applicant has a record of conviction by final judgment of a felony.~~

~~b. Must deny renewal of licensure if the applicant has a record of conviction by final judgment of a felony as provided in A.R.S. § 14-5651(C)(3).~~

Section 7-202.15: Notice Requirements

A. Required Entity-Related Notifications.

1. The principal of a business entity, the office of the public fiduciary, and the Arizona Department of Veterans' Services must include a list of all licensed fiduciaries associated with the entity with their renewal application and at any time in response to a request from the division.

2. If the status of fiduciary changes from being affiliated with a business entity, a public fiduciary office, or the Arizona Department of Veterans' Services, the fiduciary must notify the division within 30 days of the change. If the fiduciary is no longer affiliated with the office of the public fiduciary or the Arizona Department of Veterans' Services, the fiduciary loses the bonding exemption under ACJA § 7-202.09(B) and must comply with the ACJA § 7-202.08(C) bond requirement before acting as a fiduciary.

3. A licensed entity must notify the division within 30 days after a licensed fiduciary leaves the entity's employment.

B. Required Notice to Ward or Protected Person.

1. A fiduciary must inform a ward, protected person, and persons entitled to receive notice:

   a. If the fiduciary is also an attorney admitted to the practice of law in Arizona and an active member of the State Bar of Arizona, that the fiduciary is not acting as a lawyer for the ward or protected person, cannot give legal advice, and communications with the fiduciary are not privileged communications. The fiduciary who is an attorney may only provide non-fiduciary, legal services to the ward or protected person under the circumstances specified in ACJA 7-202.19(C)(2).

   b. If the fiduciary is not an attorney, that the fiduciary is not a lawyer, cannot give legal advice, and communications with the fiduciary are not privileged communications.

2. Upon appointment as a guardian or conservator, a fiduciary must provide the following written information to the ward or protected person and all those entitled to notice under A.R.S. §§ 14-5309 and 14-5405:

   > *[Insert name of Appointed Fiduciary]* holds active Fiduciary License No. *[insert license number]*, issued by the Arizona Supreme Court, and is subject to regulation by the Arizona Supreme Court, Administrative Office of the Courts, Certification and Licensing Division. Licensed fiduciaries, whether individuals or entities, are governed by the Arizona Code of Judicial Administration (ACJA) §§ 7-201.01 through 7-201.40 and §§ 7-202.01 through 7-202.28. These provisions have been adopted by the Arizona Supreme Court and include a code of conduct and other provisions that all licensed fiduciaries are required to follow. Additional information about licensed fiduciaries and their requirements may be obtained from the Administrative Office of the Courts at:
   >
   > http://www.azcourts.gov
   > Email to PFP@courts.az.gov
   > Phone: (602) 452-3378

C. Events Triggering Notice to the Division.

1. A fiduciary must report the following events to the division within 30 days of their occurrence:

   a. The fiduciary's bankruptcy, tax lien, final foreclosure, or civil judgment.

   b. The fiduciary's removal by a court for cause unless:

      (1) The fiduciary was removed after a party petitioned to substitute the fiduciary; and

(2) The court did not find that the fiduciary acted inappropriately.

c. A court order finding the fiduciary in contempt or in breach of fiduciary duty and any resulting orders or sanctions issued to the fiduciary.

d. A court order finding that the fiduciary engaged in vexatious conduct under Rule 10(G), Arizona Rules of Probate Procedure.

e. A court order issued under A.R.S. § 14-1105 finding that a decedent's estate or trust has incurred professional fees or expenses due to the fiduciary's unreasonable conduct and requiring the fiduciary to reimburse the decedent's estate, a trust, ward, or protected person for some or all fees or expenses.

f. The fiduciary crediting the account of a decedent's estate, a trust, ward, or protected person as required to comply with a court-ordered reimbursement under (e).

g. A felony conviction.

2. The fiduciary must also provide the division with copies of all relevant documents when giving notice of an event under (1).

~~**H. Complaints, Investigation, Disciplinary Proceedings, and Licensure and Disciplinary Hearings.** In addition to the provisions of ACJA § 7-201(H), the following apply to licensees and trainees:~~

~~1. Reporting of Complaints. Under A.R.S. § 14-5651, a person who in good faith provides information or testimony regarding a fiduciary's misconduct or lack of professionalism is not subject to civil liability.~~

~~2. Possible Actions. Upon completion of an investigation concerning alleged acts of misconduct or violations by a licensee or trainee, which may or may not involve a hearing, the board may, in addition to any other actions specified in ACJA § 7-201(H):~~

~~a. Require the licensee to forfeit the surety or cash bond to the extent necessary to compensate the court for the investigation and hearing process if applicable.~~

~~b. Determine and impose a civil penalty under A.R.S. § 14-5651(D). The civil penalty may not exceed $500 for each failure or violation and may not exceed a total of $15,000. The licensed fiduciary must pay the civil penalty to the supreme court for remission to the state treasurer for deposit in the general fund.~~

~~c. Deny initial licensure to a trainee if the board finds the trainee's conduct demonstrates a lack of competence, has been the source of injury or loss, or poses a danger to the public.~~

~~3. Judicial Review. As provided in A.R.S. § 14-5651(H), no fiduciary or applicant for a license has the right to a direct appeal to the supreme court.~~

~~**I. Policies and Procedures for Board Members.** Board member policies and procedures are as provided in ACJA § 7-201(I).~~

Section 7-202.16: Fiduciary Code of Conduct

~~**J. Code of Conduct.** The following code of conduct establishes minimum standards of performance for licensed fiduciaries, is adopted by the supreme court under A.R.S. § 14-5651(A)(1), and must be followed by all licensed fiduciaries in the state of Arizona. A violation of the code of conduct is unprofessional conduct and is grounds for discipline under ACJA § 7-201(H)(6)(k).~~

A. Applicability. The Fiduciary Code of Conduct is the minimum standard of performance for licensed fiduciaries adopted by the supreme court.

1. A fiduciary must comply with this section in addition to ACJA § 7-201.20.

2. Violation of the Fiduciary Code of Conduct is grounds for discipline under ACJA § 7-201.21(A)(2), (A)(3), and (B)(14).

B. General Standards.

1. Compliance. A fiduciary must abide by this section and the other requirements imposed on fiduciaries under this chapter.

2. License number. A fiduciary must include their individual license number, and the license number of any applicable business entity, on any document filed with the superior court.

3. Power. A fiduciary must comply with the court order appointing them, including any limitations, and must exercise only the powers granted in the appointment order.

4. Rights of ward or protected person. A fiduciary must:

   a. Make decisions in a manner that respects and does not violate the person's civil, constitutional, and personal rights.

   b. Advocate for preservation and protection of the person's civil, constitutional, and personal rights that have not been removed by the court.

   c. Support the person in exercising any personal, civil, and constitutional rights that have not been removed.

   d. Promptly apply to the court for instruction if the fiduciary believes the exercise of a person's civil, constitutional, and personal rights would result in substantial harm to the person or the person's estate.

5. Support staff and other professionals. A fiduciary or designated principal may employ or contract for the services of support staff and other professionals to perform office functions and assist the fiduciary in providing client services.

   a. A fiduciary or designated principal must provide active and direct supervision of support staff and other professionals.

   b. Support staff and other professionals may gather information from clients, provide information to the fiduciary about clients, and make recommendations to the fiduciary based on their knowledge and experience.

6. Knowledge. In addition to complying with the ACJA § 7-202.36 continuing education requirements:

   a. A fiduciary must ensure that they understand what the law currently requires and expects of them in whatever role they are serving.

   b. A fiduciary must become educated about the nature of a ward or protected person's disability, functional abilities, mental condition, or physical condition.

7. Special skill. If a fiduciary is appointed because they have specialized skills, the fiduciary is under a duty to use those skills.

8. Reporting violations.

   a. If a fiduciary has knowledge that another licensed fiduciary has committed misconduct raising a substantial question as to the fiduciary's honesty, trustworthiness, or qualifications as a licensed fiduciary, the fiduciary must notify the division by promptly filing a complaint under ACJA § 7-201.22(A).

   b. If a fiduciary has knowledge that another fiduciary has committed a violation of law that has or likely will cause significant harm to a ward or protected person, the fiduciary must report the matter to the court that appointed the fiduciary suspected of the violation.

9. Cooperation. The fiduciary must give full cooperation and assistance to any lawful request for information by:

   a. The court that appointed the fiduciary;

   b. A state or federal government authority investigating the fiduciary's actions;

   c. The division; and

   d. The board.

10. Confidential information. A fiduciary must maintain confidentiality in managing the affairs of a ward, protected person, or estate unless disclosure of information is necessary.

a. Disclosure must be limited to what is necessary and relevant.

b. When disclosure is necessary, a fiduciary must respect the person's privacy and dignity.

c. A fiduciary may refuse to disclose sensitive information if disclosure would be detrimental to the person's well-being or would subject the person's estate to undue risk.

C. **Additional Standards.** In addition to the standards of conduct in this section, the Fiduciary Code of Conduct includes the following standards governing:

1. A fiduciary's relationship to the court under ACJA § 7-202.17;

2. Decision-making under ACJA § 7-202.18;

3. Conflict of interest, including providing non-fiduciary services, under ACJA § 7-202.19;

4. Guardianship of the person under ACJA § 7-202.20;

5. Medical decisions under ACJA § 7-202.21;

6. Managing the estate of a protected person under ACJA § 7-202.22;

7. Authorized services under ACJA § 7-202.23;

8. Prohibited conduct under ACJA § 7-202.24;

9. Fiduciary compensation under ACJA § 7-201.25; and

10. Resignation or termination under ACJA § 7-202.26.

Section 7-202.17: Relationship to Court

~~1~~**A.** ~~Duty to the Court~~ **Applicable Law.** ~~a. The~~ A fiduciary must perform all duties and discharge all obligations in accordance with current Arizona and ~~law,~~ federal law~~, administrative rules, court orders, court rules, administrative orders, and the Arizona Code of Judicial Administration~~.

~~b~~**B. Court Orders.**

1. The fiduciary must not act outside of the authority granted by the court, must seek

direction from the court as necessary, and must seek court authorization for actions that are subject to court approval.

2. If a ~~The~~ fiduciary has ~~must clarify with the court any~~ questions about the meaning of a court's order or directions, a fiduciary must seek clarification from the court before taking action ~~based on~~ to comply with the order or directions.

3. If the fiduciary is aware of a court order that may conflict with this ~~ACJA section~~ article, the fiduciary must ~~bring the possible conflict to the attention of~~ advise the court about the possible conflict and seek the court's direction.

~~c~~**C. Information to the Court.** ~~The~~ A fiduciary must:

~~(1.) Inform the court, pursuant to~~ Under the Arizona Rules of Probate Procedure, inform the court of a permanent change in the location~~,~~ or ~~upon~~ the death~~,~~ of a ward or protected person.

~~(2.) Provide or ensure~~ Ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, and consistent with ~~the requirements specified in~~ applicable ~~Arizona~~ law~~, court rule, and the applicable sections of the Arizona Code of Judicial Administration~~.

~~(3.)~~ Not knowingly file any document with the court or present testimony to the court that is misleading, inaccurate, false, or that contains misstatements, misrepresentations, or omissions of material facts.

~~(4.)~~ Not knowingly interfere with the transmission of a request to the court, including from:

~~(a.)~~ ~~From the~~ A ward for an order that the ward is no longer incapacitated;

~~(b.)~~ ~~From the~~ A protected person for an order that the protected person is no longer in need of protection; or

~~(c.)~~ ~~From the~~ A ward or protected person for substitution of the fiduciary.

D. Vexatious Conduct. If a court finds a licensed fiduciary has engaged in repetitive filings or vexatious conduct under Rule 35, Arizona Rules of Probate Procedure, the fiduciary must comply with the order imposing sanctions, including that the fiduciary must obtain the court's permission to file future pleadings and other papers.

~~d. Authorized Services. Pursuant to Rule 31(d)(30), *Arizona Rules of the Supreme Court*, unless otherwise ordered by the court, a licensed fiduciary or a licensed fiduciary on behalf of a licensed fiduciary entity:~~

~~(1) Is authorized to prepare and file with the court the following documents, without the supervision of an attorney:~~

~~(a) Court investigation reports, if the fiduciary has been appointed as a court investigator pursuant to A.R.S. §§ 14-5303, 14-5407 or 36-540;~~

~~(b) Probate information forms pursuant to Rule 10, *Arizona Rules of Probate Procedure*;~~

~~(c) Amendments to probate information forms, pursuant to Rule 10(C), *Arizona Rules of Probate Procedure*, including notices of change of address and notice of death or the ward or protected person;~~

~~(d) Notice of the basis of compensation pursuant to A.R.S. § 14-5109 and Rule 33, *Arizona Rules of Probate Procedure*;~~

~~(e) Guardian reports pursuant to A.R.S. § 14-5315; Rule 30, *Arizona Rules of Probate Procedure*; and ACJA § 3-302;~~

~~(f) Inventory of conservatorship pursuant to A.R.S. § 14-5418; Rules 30 and 31, *Arizona Rules Probate Procedure*; and ACJA § 3-302;~~

~~(g) The protected person's consumer credit report that is filed with the inventory, pursuant to A.R.S. § 14-5418;~~

~~(h) Conservatorship estate budget pursuant to Rule 30.3, *Arizona Rules of Probate Procedure*, and ACJA § 3-302;~~

~~(i) Petition for Approval of Conservator Account, the required notices, and the conservator account pursuant to A.R.S. § 14-5419, Rule 30.3, *Arizona Rules of Probate Procedure*; and ACJA § 3-302. This authority does not include the preparation and filing of documents in contested probate proceedings pursuant to Rule 27, *Arizona Rules of Probate Procedure*, when an objection is made to the Petition for Approval of Conservator Account;~~

~~(j) Proof of restricted account, pursuant to Rule 22(C)(3), *Arizona Rules of Probate Procedure;*~~

(k) ~~Notices to creditors;~~

(l) ~~Status reports;~~

~~(m) Reports to the court of abuse, neglect, or exploitation of a vulnerable adult pursuant to A.R.S. § 46-454, et seq;~~

~~(n) A copy of the recorded letters the conservator is required to file with the court pursuant to Rule 26(E), *Arizona Rules of Probate Procedure*;~~

~~(o) Proofs of publication, notice, or mailings associated with the above filings; and~~

(p) ~~Fiduciary bond.~~

~~(2) May provide general legal information to the ward, protected person and persons entitled to notice, pertaining to legal rights, procedures, or options available to the ward or protected person in a legal matter.~~

~~(3) Must not provide any legal advice, opinion, or recommendation about possible legal rights, remedies, defenses, options, or strategies.~~

~~(4) May attend court hearings, including the initial appointment hearing for appointment of guardian, or any appearance hearing at which the fiduciary may be requested to provide testimony or the appearance of the fiduciary is necessary to further the client's best interests.~~

~~(5) Must not represent that the fiduciary is authorized to practice law in this state, provide legal services to another by representing another in a judicial, quasi-judicial, or administrative proceeding, or any other formal dispute resolution process, except as authorized by Rule 31, *Arizona Rules of the Supreme Court*.~~

~~Notwithstanding this prohibition, a fiduciary may attend court with a ward or protected person and may provide general legal information pursuant to subsection (J)(1)(d)(2).~~

~~(6) Must abide by any order entered pursuant to Rule 31, *Arizona Rules of the Supreme Court* and Rule 35, *Arizona Rules of Probate Procedure,* in which the court orders that a licensed fiduciary must obtain the court's permission to file future pleadings and other papers in a case or cases if the order finds the fiduciary engaged in vexatious conduct in connection with a probate case.~~

~~(7) May not perform functions listed in (J)(1)(d) if the court has suspended the fiduciary's authority to act pursuant to Rule 31(d)(3) which provides: "A person licensed as a fiduciary pursuant to A.R.S. § 14-5651 may perform services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-202. Notwithstanding the foregoing provision, the court may suspend the fiduciary's authority to act without an attorney whenever it determines that lay representation is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties."~~

~~(8) Must inform the ward, protected person, and persons entitled to receive notice that the fiduciary is not a lawyer, is not employed by a lawyer, and cannot give legal advice, and that communications with a fiduciary are not privileged. A fiduciary must not use the designations "lawyer," "attorney at law," "counselor at law," "law office," "JD," "Esq.," or other equivalent words, the use of which is reasonably likely to induce others to believe the fiduciary is authorized to engage in the practice of law in the State of Arizona, unless the fiduciary has been admitted to the practice of law in Arizona and is an active member of the State Bar of Arizona.~~

~~(9) May only prepare powers of attorney or other legal documents if also certified as a legal document preparer pursuant to ACJA § 7-208, except as provided in subsection (J)(d)(1) or as otherwise ordered by the court. This provision does not apply to the Arizona Department of Veteran's Services pursuant to A.R.S. § 41-603(A).~~

~~2. Relationship with the Ward or Protected Person. The fiduciary must exhibit the highest degree of trust, loyalty, and fidelity in relation to the ward, protected person, or estate.~~

~~a. The fiduciary must manage and protect the personal and monetary interests of the ward or protected person and foster growth, independence, and self-reliance to the maximum degree.~~

~~b. The fiduciary must:~~

~~(1) Avoid self-dealing, conflict of interest, impropriety, or the appearance of a conflict of interest or impropriety. Self-dealing, a conflict of interest, or impropriety arises where the fiduciary has some personal or agency interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or decedent. A conflict of interest may also arise if the fiduciary has dual or multiple relationships with a ward that conflict with each other or has a conflict between or among the best interests of two or more wards.~~

~~(2) Maintain independence from all service providers to enable the fiduciary to~~

~~coordinate services, challenge inappropriate or poorly delivered services, and act in the best interests of the ward or protected person.~~

~~(3) Upon becoming aware of a conflict of interest, immediately disclose to the court the existence and nature of the conflict.~~

~~(4) If the fiduciary is acting as a trustee for a trust that is not supervised by the court, the fiduciary must promptly provide written disclosure of any actual or perceived conflict of interest in administering the trust to all qualified beneficiaries when the fiduciary knows or has reason to know of the actual or perceived conflict.~~

~~(5) The fiduciary must maintain a professional relationship with the ward or protected person and must avoid personal relationships with the ward, protected person, or the family or friends of the ward or protected person unless the fiduciary is a family member or the personal relationship existed before the appointment of the fiduciary.~~

~~c. Court Approval.~~

~~(1) Unless otherwise authorized by the court, the fiduciary shall must not:~~

~~(a) Provide non-fiduciary services to the ward or protected person if the fiduciary, or a person or entity closely related to the fiduciary, has a personal or financial interest. For the purposes of this subsection, "closely related" includes a spouse, child, parent, sibling, grandparent, aunt, uncle, or cousin of the fiduciary, and any business, partnership, corporation, limited liability company, trust, or other entity that the fiduciary or a closely related person has a financial interest in, is employed by, or receives compensation or financial benefit from.~~

~~(b) Solicit or accept incentives or gifts from service providers other than ordinary social hospitality; or~~

~~(c) Solicit or accept a gift from a ward or protected person, or the estate of a ward or protected person, other than ordinary social hospitality.~~

~~(2) In those exceptional situations when no other services are available, a fiduciary must seek court approval before providing non-fiduciary services.~~

~~(a) When requesting court approval, the fiduciary must demonstrate in writing, and with prior notice to parties entitled to notice, that all alternatives have been identified and considered and that no alternative is available that is reasonable or practical.~~

~~(b) Prior court approval is not required in an emergency situation where it is necessary for the fiduciary to provide services to protect the best interests of the ward or protected person, but the fiduciary must document the emergency and the need for the fiduciary to provide the services and promptly inform the court and the parties entitled to notice of the circumstances constituting the emergency and the nature and extent of services provided by the fiduciary.~~

~~d. The fiduciary must vigorously protect the rights of the ward or protected person against infringement by third parties.~~

~~e. The fiduciary must, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will~~

~~result from providing this information.~~

~~f. Pursuant to A.R.S. § 14-5651, the fiduciary must, upon appointment as a guardian or conservator, provide the written information to the ward or protected person and all persons entitled to notice as specified in subsection (F)(4).~~

~~g. The fiduciary must not permit or authorize trainees, support staff, or other contracted professionals to provide informed consents or enter into any contractual agreements regarding the ward or protected persons.~~

Section 7-202.18: Decision-Making

~~3~~**A.** ~~Decision Making~~ **Degree of Care.** ~~The~~ A fiduciary must exercise extreme care and diligence when making decisions ~~on behalf of~~ for a ward or protected person. ~~The fiduciary must make all decisions in a manner that promotes the civil rights and liberties of the ward or protected person and maximizes their independence and self-reliance.~~

B. Authority. A fiduciary must not make decisions in areas outside the scope of the court's guardianship, conservatorship, or personal representative order.

C. Informed Consent. A fiduciary must ensure that they have full disclosure of the facts needed to make an uncoerced, intelligent decision on behalf of a ward or protected person and that they make decisions based on the principle of informed consent.

D. Decision-Making Standard.

1. Ward's preference.

a. A fiduciary must identify and advocate for the ward's or protected person's needs and preferences.

~~a~~b. ~~The~~ A fiduciary must make all reasonable efforts to determine the person's past and current preferences ~~of the ward or protected person, both past and current, regarding~~ about all decisions the fiduciary is empowered to make by:

(1) Asking the person their preference;
(2) If the person has difficulty expressing their preference, taking reasonable steps to help the person express their preference; and
(3) If the person is unable to express their preference, even with assistance, seeking input from others close to the person to determine what the person would want.

2. Best interest.

a. A best-interest decision is the least intrusive, most normalizing, and least restrictive action possible to provide for the person's needs.

b. ~~The~~ A fiduciary must make decisions ~~in accordance with the determined preferences of the ward or protected person, past or current, in all instances except when~~ the fiduciary reasonably believes are in the person's best interest if:

(1) The person's preferences cannot be determined; or
(2) The fiduciary is reasonably certain that the ~~decision~~ person's determined preference will result in substantial harm to the ~~ward or protected~~ person.

c. ~~When it is not possible to determine the preferences of the ward or protected person, the fiduciary must make decisions in the best interest of the ward or protected person.~~

c. In making a best-interest decision, the fiduciary must consider:

(1) Information from professionals with an interest in the person's welfare;
(2) Information the fiduciary believes the person would have considered if they were able; and
(3) Other factors a reasonable person in the person's circumstances would consider, including the impact on others.

3. Least restrictive alternative.

a. In considering the available alternatives, a fiduciary must choose one that best meets the person's needs and preferences while placing the least restrictions on the person's freedom and rights.

b. The fiduciary must weigh the risk and benefits of available alternatives and balance between maximizing the person's independence and self-determination and maintaining the person's dignity, protection, and safety.

c. A fiduciary must make individualized decisions for each ward or protected person about least restrictive alternatives.

~~d~~4~~.~~ Expertise. ~~The~~ A fiduciary must maintain an awareness of the limitations of ~~the fiduciary's~~ their own expertise~~,~~; ~~must~~ carefully consider the views and professional opinions of those involved in the treatment, care, and management of the ward, protected person, or estate~~,~~; and must seek independent professional opinions when necessary.

~~e~~5. Responsibility. ~~The fiduciary must recognize their decisions are open to the scrutiny of other interested parties and, consequently, to criticism and challenge.~~ Subject to orders of the court, the fiduciary alone is ultimately responsible for decisions made on behalf of the ward, protected person, or estate, but the fiduciary's decisions are open to the scrutiny of interested parties and subject to criticism and challenge. Accordingly, ~~The~~ the fiduciary must maintain accurate and complete records to support the decisions made ~~in the administration of a case, in compliance with court rules and the applicable sections of the Arizona Code of Judicial Administration~~.

~~f. The fiduciary must refrain from making decisions in areas outside the scope of the guardianship, conservatorship, or personal representative order.~~

Section 7-202.19: Conflict of Interest

A. Duty. A fiduciary owes a duty of trust, undivided loyalty, and fidelity to a ward, protected person, or estate.

1. A guardian is a fiduciary who must provide for the care, comfort, and maintenance of a ward or protected person and their personal effects and, if appropriate, encourage the ward to develop maximum self-reliance and independence.

2. A conservator is a fiduciary who must manage and protect the monetary interests of a ward, protected person, or estate and observe the standard of care owed by a trustee.

3. A personal representative is a fiduciary under a duty to settle and distribute the estate of a decedent according to law and must observe the standard of care owed by a trustee.

B. Conflict of Interest.

1. Consistent with a fiduciary's duties of trust, undivided loyalty, and fidelity, a fiduciary must avoid conflict of interest and impropriety or the appearance of conflict of interest or impropriety. A conflict of interest or impropriety may arise in various situations, including those in which:

    a. A fiduciary has a personal or professional interest other individuals may perceive as self-serving, self-dealing, or adverse to the position or best interest of the ward, protected person, or estate, including when a fiduciary provides non-fiduciary services.

    b. A fiduciary has dual or multiple relationships with a ward, protected person, or estate that conflict with each other.

    c. A fiduciary's duty to a ward, protected person, or estate conflicts with the fiduciary's duty to another ward, protected person, or estate.

2. A fiduciary must maintain independence from all service providers to ensure the fiduciary's ability to act in the best interests of the ward, protected person, or estate, including in coordinating services, addressing inappropriate or poorly delivered services, and challenging inappropriate charges or billing practices in the best interests of the ward or protected person.

3. The fiduciary must maintain a professional relationship with the ward or protected person and must avoid personal relationships with the ward, protected person, or the family or friends of the ward or protected person unless the fiduciary is a family member or the personal relationship existed before the appointment of the fiduciary.

4. A fiduciary must vigorously protect the rights of the ward or protected person against infringement by third parties.

5. A fiduciary must, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will result from providing this information.

C. Non-Fiduciary Services.

1. General prohibition. Consistent with a fiduciary's duty of undivided loyalty owed to a ward, protected person, or estate and to avoid self-dealing, conflict of interest, impropriety, or their appearance, a fiduciary must not provide non-fiduciary services to a ward, protected person, or estate for compensation if the fiduciary has a financial interest in providing the non-fiduciary services unless authorized by the court under this section. A fiduciary has a financial interest in providing non-fiduciary services, including when:

   a. The fiduciary provides non-fiduciary services to a ward, protected person, or estate for compensation.

   b. The fiduciary, or a person closely related to the fiduciary, has a personal or financial interest in providing the non-fiduciary services. A person "closely related" to the fiduciary means:

      (1) An individual who is the fiduciary's spouse, child, parent, sibling, grandparent, aunt, uncle, or cousin; and
      (2) An entity that the fiduciary, or an individual closely related to the fiduciary, has a financial interest in, is employed by, or receives compensation or financial benefit from.

   c. The fiduciary hires a person closely related to the fiduciary, as defined in (b), to provide non-fiduciary services, including legal services, to the fiduciary if the cost of the non-fiduciary services are directly or indirectly billed to the ward or protected person.

2. Extraordinary circumstances. Upon a written request by a fiduciary establishing the existence of extraordinary circumstances, a court may exercise its discretion to issue an order authorizing a fiduciary to provide non-fiduciary services otherwise prohibited under (C)(1).

   a. A fiduciary must file the written request and obtain court approval before providing non-fiduciary services. The failure to do so may result in disallowance of charges for the non-fiduciary services, removal, or discipline under this chapter.

   b. The fiduciary's written request for court approval must demonstrate the existence of extraordinary circumstances. Extraordinary circumstances may exist if no reasonable or practical alternative for providing the non-fiduciary services has been identified.

c. The fiduciary's written request should address the following factors relevant to the court's decision to grant or deny the request.

(1) The financial impact on the ward, protected person, or estate if the request is granted;
(2) The financial impact on the fiduciary or a person closely related to the fiduciary if the request is granted;
(3) Whether the fiduciary's role in providing both fiduciary and non-fiduciary services would constitute a relationship likely to harm the interests of the ward, protected person, or estate;
(4) Whether the risk of harm to the interests of the ward, protected person, or estate outweighs the need for the fiduciary to perform non-fiduciary services under the circumstances;
(5) Whether the fiduciary failed to disclose their financial interests related to the fiduciary role and any related benefits to the court before appointment;
(6) Whether the conflict created by performing the proposed non-fiduciary services is insubstantial;
(7) Whether it serves the ward's, protected person's, or estate's best interests for the fiduciary to perform the specified non-fiduciary services; and
(8) Whether the proposed compensation for performing the non-fiduciary services is reasonable and necessary, considering the best interest of the ward or protected person, under the factors listed in A.R. S. § 14-5109(C).

d. If the court grants the request:

(1) The fiduciary's billing for the authorized non-fiduciary services performed must be separated from the billing for fiduciary services;
(2) The non-fiduciary services and fees must be reasonable; and
(3) Even with advance approval to provide non-fiduciary services, the services and fees are subject to court approval under ACJA § 7-202.25(D).

3. Emergency exception. Prior court approval is not required in an emergency situation where it is immediately necessary for the fiduciary to provide non-fiduciary services to protect the best interests of the ward or protected person on the condition that the fiduciary must, within 2 calendar days, file a written request for court approval:

a. Containing the information required under (C)(2)(b) demonstrating the existence of extraordinary circumstances;

b. Including the fiduciary's written explanation and documentation of the emergency circumstances requiring the fiduciary to provide non-fiduciary services before requesting or obtaining court approval; and

c. Informing the court and the parties entitled to notice about the circumstances constituting the emergency and the full nature and extent of services provided by the fiduciary.

D. Disclosure.

1. Upon becoming aware of an actual or perceived conflict of interest, a fiduciary must immediately file a notice with the court disclosing the existence and nature of the conflict to the court and the parties entitled to notice.

2. If the fiduciary is serving as a trustee for a trust that is not supervised by the court, the fiduciary must immediately, upon becoming aware of an actual or perceived conflict of interest, provide written disclosure of the actual or perceived conflict of interest to all qualified beneficiaries.

SHOWING How Proposed § 7-202.19 Revises Current § 7-202(J)(2)(a)–(c)

Section 7-202.19: Conflict of Interest

~~2~~**A. Duty.** ~~Relationship with the Ward or Protected Person. The~~ A fiduciary ~~must exhibit the highest degree of~~ owes a duty of trust, undivided loyalty, and fidelity ~~in relation~~ to ~~the~~ a ward, protected person, or estate.

~~a~~1. ~~The~~ A guardian is a fiduciary who must ~~manage and protect the personal and monetary interests of the~~ provide for the care, comfort, and maintenance of a ward or~~,~~ protected person and their personal effects and, if appropriate, encourage the ward to develop ~~foster growth, independence, and~~ maximum self-reliance and independence ~~to the maximum degree~~.

2. A conservator is a fiduciary who must manage and protect the monetary interests of a ward, protected person, or estate and observe the standard of care owed by a trustee.

3. A personal representative is a fiduciary under a duty to settle and distribute the estate of a decedent according to law and must observe the standard of care owed by a trustee.

~~**B.**~~ **Conflict of Interest.**

~~b~~(1.) ~~The fiduciary~~ Consistent with a fiduciary's duties of trust, undivided loyalty, and fidelity, a fiduciary must ~~Avoid~~ avoid ~~self-dealing,~~ conflict of interest~~,~~ and impropriety~~,~~ or the appearance of ~~a~~ conflict of interest or impropriety. ~~Self-dealing, a~~ A conflict of interest~~,~~ or impropriety ~~arises~~ may arise in various situations, including those in which:

a. ~~where the~~ A fiduciary has ~~some~~ a personal or ~~agency~~ professional interest other individuals may perceive as self-serving or adverse to the position or best interest of the ward, protected person, or ~~decedent~~ estate.

b. ~~A conflict of interest may also arise if the~~ A fiduciary has dual or multiple relationships with a ward, protected person, or estate that conflict with each other.

c. A fiduciary's duty to a ward, protected person, or estate conflicts with the fiduciary's duty to another ward, protected person, or estate ~~or has a conflict between or among the best interests~~

~~of two or more wards~~.

~~(~~2.~~)~~ ~~Maintain~~ A fiduciary must maintain independence from all service providers to ~~enable~~ ensure the ~~fiduciary~~ fiduciary's ability to act in the best interests of the ward, protected person, or estate, including ~~coordinate~~ in coordinating services, ~~challenge~~ addressing inappropriate or poorly delivered services, and ~~act~~ challenging inappropriate charges or billing practices in the best interests of the ward or protected person.

~~(3) Upon becoming aware of a conflict of interest, immediately disclose to the court the existence and nature of the conflict.~~

~~(4) If the fiduciary is acting as a trustee for a trust that is not supervised by the court, the fiduciary must promptly provide written disclosure of any actual or perceived conflict of interest in administering the trust to all qualified beneficiaries when the fiduciary knows or has reason to know of the actual or perceived conflict.~~

~~(5~~3.~~)~~ The fiduciary must maintain a professional relationship with the ward or protected person and must avoid personal relationships with the ward, protected person, or the family or friends of the ward or protected person unless the fiduciary is a family member or the personal relationship existed before the appointment of the fiduciary.

4. A fiduciary must vigorously protect the rights of the ward or protected person against infringement by third parties.

5. A fiduciary must, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will result from providing this information.

~~c. Court Approval.~~

~~C.~~ Non-Fiduciary Services.

~~(~~1.~~)~~ General prohibition. ~~Unless otherwise authorized by the court, the~~ Consistent with a fiduciary's duty of undivided loyalty owed to a ward, protected person, or estate and to avoid self-dealing, conflict of interest, impropriety, or their appearance, a fiduciary ~~shall~~ must not ~~(a) Provide~~ provide non-fiduciary services to ~~the~~ a ward, ~~or~~ protected person, or estate for compensation if the fiduciary, or a person ~~or entity~~ closely related to the fiduciary, has a personal or financial interest in the non-fiduciary services unless authorized by the court under this section. A fiduciary has a financial interest in providing non-fiduciary services, including when:

a. The fiduciary provides non-fiduciary services to a ward, protected person, or estate for compensation.

b. The fiduciary, or a person closely related to the fiduciary, has a personal or financial interest in providing the non-fiduciary services. ~~For the purposes of this subsection,~~ A person "closely related" to the fiduciary ~~includes~~ means:

(1) ~~a~~ An individual who is the fiduciary's spouse, child, parent, sibling, grandparent, aunt, uncle, or cousin; ~~of the fiduciary,~~ and
(2) ~~any~~ An ~~business, partnership, corporation, limited liability company, trust, or other~~ entity that

the fiduciary, or ~~a~~ an individual closely related ~~person~~ to the fiduciary, has a financial interest in, is employed by, or receives compensation or financial benefit from.

~~(b) Solicit or accept incentives or gifts from service providers other than ordinary social hospitality; or~~

~~(c) Solicit or accept a gift from a ward or protected person, or the estate of a ward or protected person, other than ordinary social hospitality.~~

~~(2).~~ Extraordinary circumstances. ~~In those exceptional situations when no other services are available,~~ Upon a written request by a fiduciary establishing the existence of extraordinary circumstances, a court may exercise its discretion to issue an order authorizing a fiduciary to provide non-fiduciary services otherwise prohibited under (C)(1).

a. ~~a~~ A fiduciary must ~~seek~~ file the written request and obtain court approval before providing non-fiduciary services. The failure to do so may result in disallowance of charges for the non-fiduciary services, removal, or discipline under this chapter.

b. ~~(a) When requesting court~~ The fiduciary's written request for court approval~~, the fiduciary~~ must demonstrate ~~in writing, and with prior notice to parties entitled to notice,~~ the existence of extraordinary circumstances. Extraordinary circumstances may exist if ~~that all alternatives~~ no reasonable or practical alternative for providing the non-fiduciary services ~~have~~ has been identified ~~and considered and that no alternative is available that is reasonable or practical~~.

c. The fiduciary's written request should address the following factors relevant to the court's decision to grant or deny the request:

(1) The financial impact on the ward, protected person, or estate if the request is granted;
(2) The financial impact on the fiduciary or a person closely related to the fiduciary if the request is granted;
(3) Whether the fiduciary's role in providing both fiduciary and non-fiduciary services would constitute a relationship likely to harm the interests of the ward, protected person, or estate;
(4) Whether the risk of harm to the interests of the ward, protected person, or estate outweighs the need for the fiduciary to perform non-fiduciary services under the circumstances;
(5) Whether the fiduciary failed to disclose their financial interests related to the fiduciary role and any related benefits to the court before appointment;
(6) Whether the conflict created by performing the proposed non-fiduciary services is insubstantial;
(7) Whether it serves the ward's, protected person's, or estate's best interests for the fiduciary to perform the specified non-fiduciary services; and
(8) Whether the proposed compensation for performing the non-fiduciary services is reasonable and necessary, considering the best interest of the ward or protected person, under the factors listed in A.R. S. § 14-5109(C).

d. If the court grants the request, the fiduciary's billing for the authorized non-fiduciary services performed must be separated from the billing for fiduciary services.

(1) The fiduciary's billing for the authorized non-fiduciary services performed must be separated from the billing for fiduciary services;
(2) The non-fiduciary services and fees must be reasonable; and
(3) Even with advance approval to provide non-fiduciary services, the services and fees are subject to court approval.

~~(b)~~3. Emergency exception. Prior court approval is not required in an emergency ~~situation where~~ it is immediately necessary for the fiduciary to provide non-fiduciary services to protect the best interests of the ward or protected person~~, but the~~ on the condition that the fiduciary must, within 2 calendar days, file a written request for court approval:

a. Containing the information required under (C)(2)(b) demonstrating the existence of extraordinary circumstances;

b. ~~document~~ Including the fiduciary's written explanation and documentation of the emergency circumstances ~~and the need for~~ requiring the fiduciary to provide ~~the~~ non-fiduciary services before requesting or obtaining court approval; and

c. ~~promptly inform~~ Informing the court and the parties entitled to notice ~~of~~ about the circumstances constituting the emergency and the full nature and extent of services provided by the fiduciary.

d. ~~The fiduciary must vigorously protect the rights of the ward or protected person against infringement by third parties.~~

e. ~~The fiduciary must, whenever possible, provide all pertinent information to the ward or protected person unless the fiduciary is reasonably certain substantial harm will result from providing this information.~~

f. ~~Pursuant to A.R.S. § 14-5651, the fiduciary must, upon appointment as a guardian or conservator, provide the written information to the ward or protected person and all persons entitled to notice as specified in subsection (F)(4).~~

g. ~~The fiduciary must not permit or authorize trainees, support staff, or other contracted professionals to provide informed consents or enter into any contractual agreements regarding the ward or protected persons.~~

~~D.~~ Disclosure.

1. Upon becoming aware of ~~a~~ an actual or perceived conflict of interest, a fiduciary must immediately file a notice with the court ~~disclose to the court~~ disclosing the existence and nature of the conflict to the court and the parties entitled to notice.

~~(4~~2.~~)~~ If the fiduciary is serving as a trustee for a trust that is not supervised by the court , ~~If~~ the fiduciary ~~is acting as a trustee for a trust that is not supervised by the court, the fiduciary~~ must ~~promptly~~ immediately, upon becoming aware of an actual or perceived conflict of interest, provide written disclosure of ~~any~~ the actual or perceived conflict of interest ~~in administering the trust~~ to all qualified beneficiaries ~~when the fiduciary knows or has reason to know of the actual or perceived conflict~~.

Section 7-202.20: Guardian of Person

~~4. Guardianship.~~

A. Upon Appointment. Once appointed guardian, the fiduciary must:

1. Address the ward's immediate issues.

2. Meet with the ward as soon as possible and assess the ward's physical and social situation; their goals, needs, and preferences; and their available support systems.

3. Gather information about the ward, including:

    a. Evaluation of the ward's physical condition, functional status, and treatment from their treating physician and any specialists;

    b. A psychological evaluation, if appropriate; and

    c. Advance directives, including living wills, organ donation statements, and powers of attorney.

4. Establish contact with the conservator and any other fiduciary for the ward.

5. Determine whether the ward's finances are in line with their needs.

6. Develop and implement a written guardianship plan.

7. Review the statutes, rules, and regulations applicable to guardians and must stay current on changes to these provisions.

B. Duties.

1. Subject to the terms of the court's appointment order, ~~The~~ the fiduciary acting as a guardian ~~must assume~~ is entitled to legal custody of the ~~ward~~ ward's person and must:

    a. Make provision for the care, comfort, and maintenance of the ward; and

    b. Take reasonable care of the ward's clothing, furniture, vehicles, and other personal effects ~~ensure the ward resides in the least restrictive environment available~~.

2. The fiduciary or the fiduciary's qualified representative~~,~~ must, absent good cause, visit and assess the ward ~~no less than~~ at least quarterly and as often as is necessary to ensure the ward's well-being. For this purpose, a "qualified representative" means an individual who is a licensed fiduciary.

3. A fiduciary acting as a guardian must submit written reports to the court as required under

A.R.S. § 14-5315.

4. If the only available placement, treatment, care, or services are not the most appropriate and least restrictive, the fiduciary must advocate for the rights of the ward, negotiate a more desirable placement or more desirable form of treatment, care, or services and must retain legal counsel to assist if necessary.

C. Ward's Care, Comfort, and Maintenance. The fiduciary, as guardian, ~~must assume responsibility~~ is responsible for providing informed consent on behalf of the ward for the ~~provision of~~ ward's care, treatment, and services.

1. ~~and~~ General. The fiduciary must ensure that the ward's care, treatment, and services ~~provided~~ represent the least restrictive form of intervention available.

a. ~~On appointment, the fiduciary must review the statutes, rules, and regulations applicable to guardians and must be informed about changes to these provisions.~~

2. Living arrangements.

~~b~~a. The fiduciary must ~~be~~ become informed ~~and aware of~~ about the options and alternatives available for ~~establishing~~ the ward's ~~place of~~ residence.

b. The fiduciary must see that the ward is living in the most appropriate, least restrictive setting consistent with the ward's needs, capabilities, and financial ability.

c. In making decisions about the ward's living arrangements under the ACJA § 7-202.18(D) decision-making standard, the fiduciary must:

(1) As between residential settings, give priority to home or community settings.
(2) Not remove the ward or protected person from their home or separate them from family and friends unless removal or separation is necessary to prevent substantial harm or because of financial constraints.
(3) Give priority to a setting that meets the ward's or protected person's needs in the least restrictive manner.

~~c. The fiduciary must make decisions in conformity with the preferences of the ward in establishing the residence of the ward unless the fiduciary is reasonably certain this decision will result in substantial harm to the ward.~~

~~d. The fiduciary must when it is not possible to determine the preferences of the ward or when it is reasonably certain the ward's preference will result in substantial harm to the ward make decisions with respect to the place of abode of the ward that are in the best interests of the ward.~~

~~e. The fiduciary must not remove the ward from the home or separate the ward from family and friends unless this removal is necessary to prevent substantial harm or~~

~~because of financial constraints. The fiduciary must make every reasonable effort to ensure the ward resides at home or in a community setting.~~

~~f.~~(4) ~~The fiduciary must seek~~ Seek professional evaluations and assessments whenever necessary to determine if the current or proposed placement of the ward or protected person represents the least restrictive environment ~~to the ward~~.

(5) Give priority to a setting that allows the ward or protected person to continue important social relationships

(6) Prioritize a setting without unnecessary restrictions.

(7) ~~The fiduciary must work~~ Work cooperatively with available community-based organizations to assist in ensuring the ward or protected person resides in a non-institutional environment.

~~g.~~(8) ~~The fiduciary must monitor~~ Monitor the placement of the ward or protected person ~~on an on-going basis~~ to ensure the continued appropriateness of the placement.

(9) ~~and must consent~~ Consent to changes as they become necessary or advantageous for the ward.

~~h. The fiduciary must, if the only available placement is not the most appropriate and least restrictive, advocate for the rights of the ward, negotiate a more desirable placement with a minimum of delay, and retain legal counsel for assistance if necessary.~~

3. Care, treatment, and services.

a. The fiduciary must make decisions about the ward's care, treatment, and services under the ACJA § 7-202.18(D) decision-making standard.

~~i. The fiduciary must make decisions in conformity with the preferences of the ward when providing consent for the provision of care, treatment, and services unless the fiduciary is reasonably certain these decisions will result in substantial harm to the ward.~~

~~j. When it is not possible to determine the preferences of the ward or the ward's preferences will result in substantial harm, the fiduciary must make decisions with respect to care, treatment, and services in conformity with the best interests of the ward.~~

~~k. In the event the only available treatment, care or services are not the most appropriate and least restrictive, the fiduciary must advocate for the right of the ward to a more desirable form of treatment, care, or services and must retain legal counsel to assist if necessary.~~

~~l~~b. The fiduciary must seek professional evaluations and assessments whenever necessary to determine whether the current or proposed care, treatment, and services represent the least restrictive form of intervention available.

~~m~~c. The fiduciary must work cooperatively with available individuals and organizations to ensure that the ward receives care, treatment, and services representing the least restrictive form of intervention available and that are consistent with the wishes or best interests of the ward.

~~n. The fiduciary must not consent to extraordinary medical procedures without prior authorization from the superior court. The procedures the fiduciary must not consent to without prior court approval include abortion, sterilization, organ transplants, psycho surgery, electro-convulsive therapy, medical treatment for clients whose religious beliefs prohibit these treatments, and any other treatments or interventions the court must approve pursuant to state law.~~

~~o. The fiduciary must know and follow the laws of the state regarding the withholding or withdrawal of life-sustaining treatment.~~

~~p~~d. The fiduciary must regularly monitor the care, treatment, and services the ward or protected person is receiving to ensure their continued appropriateness and must consent to changes as they become necessary for or advantageous to the ward or protected person. ~~The fiduciary or appropriate designee must be available to respond to an urgent need for medical decisions. The fiduciary must provide instructions regarding treatment or non-treatment by medical staff in emergencies.~~

4. Changes of circumstances. A fiduciary must:

a. Be alert to changes in the ward's or protected person's condition or circumstances and report to the court when an increase or reduction in the authority of the fiduciary should be considered;

b. Develop information to provide a basis for termination or limitation of the guardianship or conservatorship;

c. When termination or limitation of the guardianship or conservatorship is warranted, promptly request court action;

d. Assist the ward or protected person in terminating or limiting the guardianship or conservatorship when indicated; and

e. Retain independent legal counsel for the ward or protected person as necessary.

~~q. The fiduciary must ensure that the ward receives all medical and financial benefits to which the ward may be entitled.~~

~~r. The fiduciary must protect and manage the monetary interests of the ward when acting in a *de facto* conservatorship, including not co-mingling funds and assets.~~

D. Ward's Personal Effects. The fiduciary must secure the ward's personal property, insure it, and protect it from damage, destruction, or loss.

E. Conservator Appointment.

1. Without conservator. If no conservator has been appointed for the ward's estate, the guardian fiduciary must:

   a. Initiate proceedings to compel any person under a duty to support the ward or to pay for the ward's welfare to perform their duty; and

   b. Receive money and tangible property on the ward's behalf and apply it for the ward's support, care, and education on the following conditions:

      (1) The guardian may not use funds from the ward's estate for room and board furnished by the guardian or the guardian's spouse, parent or child unless the charge is approved by the court after notice to at least one of the ward's next of kin, if notice is possible.
      (2) The guardian must exercise care to conserve any excess for the ward's needs.

2. With conservator. If a conservator has been appointed, the guardian must:

   a. Pay to the conservator, for the conservator's management, all of the ward's estate received by the guardian that is in excess of the funds expended to meet the ward's current expenses for support, care, and education; and

   b. The guardian must account to the conservator for the funds expended and not paid to the conservator.

Section 7-202.21: Medical Decisions

A. Regular Medical Care. A fiduciary must:

1. Monitor the ward's health and well-being;

2. Ensure that the ward receives all medical benefits to which the ward may be entitled; and

3. Take reasonable steps to ensure that the ward's medical care is appropriately provided.

B. Extraordinary Procedures. A fiduciary must not consent to a ward receiving the following extraordinary medical procedures without prior authorization from the superior court:

1. Abortion;

2. Sterilization;,

3. Organ transplants;

4. Psycho surgery;

5. Electro-convulsive therapy;

6. A treatment prohibited by the ward's religious beliefs; or

7. Other treatments or interventions the court must approve under state law.

C. Emergency Care.

1. A fiduciary must be available to respond to an urgent need for medical decisions.

2. A fiduciary must instruct medical providers about the ward's treatment or non-treatment and must:

   a. Be familiar with the ward's prior execution of any health care documents, including a health care power of attorney, living will, organ donation statement, or other advance directive or statement of the ward's intent and wishes about medical intervention.

   b. Know and follow state law on withholding or withdrawal of life-sustaining treatment.

D. Decision-Making Process. A guardian authorized to make health care decisions for a ward must make those decisions under the ACJA § 7-202.18(D) decision-making standard. In making a decision, the fiduciary must:

1. Maximize the ward's participation to the extent possible;

2. Speak directly to the treating or attending physician before authorizing or denying any medical treatment;

3. Make sure the fiduciary clearly understands the medical facts;

4. Make sure the fiduciary clearly understands the risks and benefits of the treatment options;

5. Support the ward in understanding the facts, risks, and benefits of the options and support the ward's ability to direct a decision; and

6. Obtain a second opinion for any treatment or intervention that poses a significant risk to the ward or when a reasonable person would do so.

Section 7-202.22: Managing Estate of Protected Person

A. Application. This section applies to a licensed fiduciary acting as a guardian, conservator, personal representative, trustee, or agent under a power of attorney, with or without court appointment, who manages the estate of a protected person.

~~5~~**B.** ~~Conservatorship~~**Standard.**

1. ~~The~~ Under A.R.S. § 14-5417, a fiduciary ~~acting~~ appointed as a conservator, or as a guardian if no conservator is appointed, ~~for the estate~~ must ~~provide competent management of the property and income of the estate~~ observe the standard of care applicable to trustees under A.R.S. §§ 14-10804 and 14-10806:

   a. The fiduciary must ~~exercise~~ manage the ~~highest level of fiduciary responsibility, intelligence, prudence, and diligence in the discharge of all duties~~ estate as a prudent person would. The duty of prudence requires exercising reasonable care, skill, and caution. ~~A fiduciary must avoid any self-interest in the discharge of this duty.~~

   b. A fiduciary with special skills or expertise must use their special skills or expertise.

2. Under A.R.S. § 14-3703, except as provided in the will of a decedent, a fiduciary serving as a personal representative comply with:

   a. The standard of care applicable to trustees under A.R.S. §§ 14-10804 and 14-10806 as stated in (1); and

   b. The duties of accounting applicable to trustees under A.R.S. § 14-10813(C) to report on the trust property, liabilities, receipts, disbursements, the source and amount of trustee compensation, a list of trust assets and, if possible, their market values. The accounting must be made:

      (1) At least annually and at the termination of a trust; and
      (2) To those who may receive distribution of trust income or principal and any other beneficiary who requests an accounting.

~~a~~**C. Upon Appointment.** ~~On~~Upon appointment, the fiduciary must ~~review and be informed about the laws, court rules, and regulations governing management of a protected person's estate.~~:

1. Address issues requiring immediate action, including marshaling, securing, and protecting estate assets;

2. Meet with the protected person as soon as possible.

3. Gather information, including:

   a. The protected person's prior and current goals, needs, and preferences;

   b. The nature and extent of the person's assets, income, and liabilities;

   c. Whether the person has relied on others for support in managing their finances; and

   d. About the nature of any incapacity, condition, and functional capabilities of the protected person.

4. Review the statutes, rules, and regulations applicable to guardians and stay current on changes to these provisions.

~~b. Pursuant to A.R.S. § 14-1104:~~

~~(1) The fiduciary must prudently manage costs, preserve the assets of the ward or protected person for the benefit of the ward or protected person and protect against incurring any costs that exceed probable benefits to the ward, protected person, decedent's estate, or trust, except as otherwise directed by a governing instrument or court order.~~

~~(2) A guardian ad litem, fiduciary, and fiduciary's attorney for the ward or protected person have a duty to:~~

~~(a) Act in the best interest of the ward or protected person.~~

~~(b) Avoid engaging in excessive or unproductive activities.~~

~~(c) Affirmatively assess the financial costs of pursuing any action compared to the reasonably expected benefit to the ward or protected person.~~

~~(3) Market rates for goods and services are a proper, ongoing consideration for the fiduciary and the court during the initial court appointment of a fiduciary or attorney and relating to a request to substitute a court-appointed fiduciary or attorney.~~

~~c. On appointment, the fiduciary must take reasonable steps to marshal and secure the property and income of the protected person's estate as soon as possible. The fiduciary must provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.~~

~~d. The fiduciary must not co-mingle any property or assets of the protected person's estate with those of other clients of the fiduciary in any capacity or with the fiduciary's own property or assets.~~

~~e. The fiduciary must manage the income of the estate with the primary goal of providing for the needs of the protected person and, in certain cases, the needs of the dependents of the protected person for support and maintenance.~~

~~f. The fiduciary must exercise prudence in the investment of surplus funds of the estate.~~

~~g. The fiduciary must petition for and receive authority from the superior court before expending estate funds for gifting.~~

~~h. The fiduciary must have no self-interest in the management of the estate and must exercise caution to avoid even the appearance of self-interest.~~

~~i. The fiduciary must ensure the protected person receives all medical and financial benefits to which the protected person may be entitled.~~

~~j. The fiduciary must ensure that all fees and expenses incurred for the protected person by the fiduciary, including compensation for the services of the fiduciary, are reasonable in amount, necessarily incurred for the welfare of the protected person, and in compliance with ACJA § 3-303.~~

~~k. The fiduciary must prepare complete, accurate, and understandable accounts and inventories.~~

~~l. The fiduciary must protect the rights and make decisions in the best interest of the protected person when acting in a *de facto* guardianship.~~

~~m. Unless otherwise ordered by the court, the fiduciary must provide timely access to and copies of documents associated with the conservator's annual account, as provided in A.R.S. § 14-5418(C).~~

D. Duties.

1. General. Subject to the terms of the court's appointment order, the fiduciary must:

a. Manage, control, inventory, and monitor the protected person's assets, income, and liabilities.

b. Obtain all public benefits and insurance benefits for which the person is or may become eligible.

c. Keep complete and accurate records and be able to fully account for all estate assets, income, and expenditures.

d. Photograph and maintain accurate record of all real and personal property.

e. Employ prudent and accepted accounting procedures.

f. Manage the estate only for the benefit of the protected person and act in their best interest.

g. Make decisions in good faith and that are most beneficial to the estate.

h. Prioritize the needs and preferences of the protected person—including, in appropriate cases, the needs of their dependents—over preserving the estate for subsequent beneficiaries.

i. Have no self-interest in the management of the estate and avoid even the appearance of self-interest.

j. Manage risks but not necessarily eliminate them.

k. Develop a financial plan and budget for managing resources and expenses that reasonably corresponds with the protected person's care plan and preferences.

l. Exercise prudence when investing the estate's surplus funds.

m. Ensure that all fees and expenses, including fiduciary compensation, are reasonable and necessary for the administration of the estate:

(1) Avoid in engaging in excessive or unproductive activities.
(2) Weigh the financial cost of any action against the benefit reasonably expected to the estate.
(3) Consider market rates for goods and services.

n. Secure the estate's real and personal property, insure it, and protect it from damage, destruction, dissipation, exploitation, or loss.

o. Not co-mingle any property or assets with those of other estates, clients, or the fiduciary's own property or assets.

p. Obtain the assistance of other professionals with needed expertise when prudent.

q. Communicate regularly and coordinate efforts with any appointed guardian of the person.

r. Provide those entitled to notice with timely access to and copies of financial records as required under § 14-5418(C).

~~6~~2. Personal Representative. ~~A~~ In addition to the duties under (1), a fiduciary acting as personal representative ~~must~~:

a. Must settle and distribute the estate of the decedent efficiently, timely, and in the best interests of the estate and, if appropriate, in accordance with the terms of any probated and effective will.

~~a~~b. On appointment, ~~the fiduciary~~ must review ~~and be informed about~~ the laws, court rules, and regulations governing management of a decedent's estate and must stay current on changes to these provisions.

b. ~~On appointment, the fiduciary must take reasonable steps to marshal and secure the property and income of the decedent's estate as soon as possible. The fiduciary must provide stewardship of the property for safekeeping and, at a minimum, record pictorially and establish and maintain accurate records of all real and personal property.~~

c. ~~The fiduciary must not co-mingle any property or assets of the decedent's estate with those of other clients of the fiduciary in any capacity or co-mingle with the fiduciary's own property or assets.~~

d. ~~A fiduciary must exercise intelligence, prudence, and diligence in providing competent management of the property and income of the estate. A fiduciary acting as a personal representative must observe the standards of care and duties applicable to trustees.~~

e. ~~A fiduciary must resolve questions in good faith and make decisions that are most beneficial to the estate.~~

f. ~~A fiduciary must have no self-interest in the management of the decedent's estate and must exercise caution to avoid even the appearance of self-interest.~~

g. ~~A fiduciary must ensure that all fees and expenses for the estate, including compensation for the fiduciary, are reasonable in amount and necessarily incurred in the administration of the decedent's estate.~~

~~h~~e. ~~A fiduciary acting as personal representative must prepare~~ Prepare complete, accurate, and understandable court documents, including~~, but not limited to,~~ petitions for determination of heirs, inventories, accounts, and closing statements.

7. ~~Trustee and Power of Attorney. A licensed fiduciary who is acting as a trustee or agent under a power of attorney must abide by this code of conduct, regardless of whether that person is acting pursuant to court appointment.~~

~~8~~3. Changes of Circumstances~~, Limitation, and Termination~~. ~~The~~ A fiduciary must:

a. ~~has an affirmative obligation to be~~ Be alert to changes in the ward's or protected person's condition or circumstances, and report~~t~~ to the court when an increase or reduction in the authority of the fiduciary should be considere~~d, and seek termination or limitation of the guardianship or conservatorship when indicated.~~;

~~a~~b. ~~The fiduciary must diligently seek out~~ Develop information to provide a basis for termination or limitation of the guardianship or conservatorship~~.~~;

~~b~~c. ~~The fiduciary, upon indication that~~ When termination or limitation of the guardianship or conservatorship ~~order~~ is warranted, ~~must~~ promptly request court actio~~n, retaining legal counsel if necessary.~~;

~~c~~d. ~~The fiduciary must assist~~ Assist the ward or protected person in ~~termination~~ terminating or limiting the guardianship or conservatorship when indicated; and

e. ~~arrange for~~ Retain independent ~~representation~~ legal counsel for the ward or protected person ~~whenever~~ as necessary.

~~9. Reporting Violations. A fiduciary must promptly notify the division if the fiduciary has knowledge that another licensed fiduciary has committed misconduct raising a substantial question as to the fiduciary's honesty, trustworthiness, or qualifications as a licensed fiduciary by filing a complaint under ACJA § 7-201(H).~~

Section 7-202.23: Authorized Services

A. Limited Practice of Law. Under Rule 31.3(e)(3), the supreme court authorizes licensed fiduciaries to engage in the limited practice of law, without attorney supervision, by performing authorized services in compliance with this article.

B. Preparation and Filing of Documents. Unless otherwise ordered by the court, a licensed fiduciary acting individually or on behalf of a licensed fiduciary entity is authorized to prepare the following documents and file them with the court:

1. Court investigation reports, if the fiduciary has been appointed as a court investigator, including by appointment under A.R.S. §§ 14-5303(C), 14-5407(B), or 36-540(G);

2. Probate information forms under Rule 13(b), Arizona Rules of Probate Procedure;

3. Amended probate information forms, notices of change of information, and notices of the death of a ward or protected person under the Arizona Rules of Probate Procedure;

4. A written notice of the basis of compensation the fiduciary intends to charge the estate of a ward or protected person under A.R.S. § 14-5109.

5. Petitions or requests for fees or compensation under Rule 33, Arizona Rules of Probate Procedure;

6. Annual guardian reports under A.R.S. § 14-5315 and Rule 30, Arizona Rules of Probate Procedure;

7. Conservator's inventory under A.R.S. § 14-5418 and Rule 45, Arizona Rules Probate Procedure;

8. The protected person's consumer credit report filed with the conservator's inventory under A.R.S. § 14-5418(A);

9. Conservator's budget and amendments under Rule 45(d), Arizona Rules of Probate Procedure;

10. Petition for approval of conservator intermediate or final account, including required notices, or verified statement under A.R.S. § 14-5419 and Rule 45, Arizona Rules of Probate Procedure, but not the preparation and filing of documents in a probate proceeding that becomes contested with the filing of an objection to the petition under Rule 15, Arizona Rules of Probate Procedure;

11. Proof of restricted account, under Rule 36(b)(2), Arizona Rules of Probate Procedure;

12. Notices to creditors;

13. Status reports;

14. Reports to the court of abuse, neglect, or exploitation of a vulnerable adult under A.R.S. § 46-454, et seq.;

15. A copy of the recorded letters of the conservator's appointment under Rule 39, Arizona Rules of Probate Procedure;

16. Proofs of publication, notice, or mailings associated with the above filings; and

17. Bond filing under Rule 36(a)(3), Arizona Rules of Probate Procedure.

C. General Information. A licensed fiduciary may provide general information to a ward, protected person, and persons entitled to notice about the legal rights, procedures, or options available to them in a legal matter on the condition that the fiduciary not provide any legal advice, opinion, or recommendation.

D. Court Hearings. A licensed fiduciary may attend court hearings, including the initial hearing for appointment of a guardian, or hearing at which the fiduciary may be requested to provide testimony or the appearance of the fiduciary is necessary to further the ward's, protected person's, or estate's best interests.

SHOWING How Proposed § 7-202.23 Revises Current § 7-202(J)(1)(d)(1)–(6)

Section 7-202.23: Authorized Services

~~d~~**A.** ~~Authorized Services~~**Limited Practice of Law.** ~~Pursuant to~~ Under Rule 31.3 (~~de~~)(~~303~~), ~~*Arizona Rules of the Supreme Court*,~~ the supreme court authorizes licensed fiduciaries to engage in the limited practice of law, without attorney supervision, by performing authorized services in compliance with this article.

B. Preparation and Filing of Documents. ~~unless~~ Unless otherwise ordered by the court, a licensed fiduciary acting individually or ~~a licensed fiduciary~~ on behalf of a licensed fiduciary entity~~: (1)Is~~ is authorized to prepare the following documents and file them with the court ~~the following documents, without the supervision of an attorney~~:

~~(a)~~ 1. Court investigation reports, if the fiduciary has been appointed as a court investigator, ~~pursuant to~~ including by appointment under A.R.S. §§ 14-5303(C), 14-5407(B), or 36-540(G);

~~(b)~~ 2. Probate information forms ~~pursuant to~~ under Rule ~~101~~3(b), Arizona Rules of Probate Procedure;

~~(c)~~ 3. ~~Amendments to~~ Amended probate information forms, notices of change of information, and notices of the death of a ward or protected person under the ~~pursuant to Rule 10(C),~~ Arizona Rules of Probate Procedure~~, including notices of change of address and notice of death or the ward or protected person~~;

4. A written notice of the basis of compensation the fiduciary intends to charge the estate of a ward or protected person under A.R.S. § 14-5109.

~~(d)~~ 5. ~~Notice of the basis of~~ Petitions or requests for fees or compensation ~~pursuant to~~ under ~~A.R.S. § 14-5109 and~~ Rule 33, Arizona Rules of Probate Procedure;

~~(e)~~ 6. ~~Guardian~~ Annual guardian reports ~~pursuant to~~ under A.R.S. § 14-5315~~;~~ and Rule 30, Arizona Rules of Probate Procedure; ~~and ACJA § 3-302;~~

~~(f)~~ 7. ~~Inventory of conservatorship~~ Conservator's inventory under ~~pursuant to~~ A.R.S. § 14-5418~~;~~ and ~~Rules 30 and 31~~ Rule 45, Arizona Rules Probate Procedure~~; and ACJA § 3-302~~;

~~(g)~~ 8. The protected person's consumer credit report ~~that is~~ filed with the conservator's inventory~~, pursuant to~~ under A.R.S. § 14-5418(A);

~~(h)~~ 9. ~~Conservatorship estate~~ Conservator's budget and amendments ~~pursuant to~~ under Rule ~~30.3~~45(d), Arizona Rules of Probate Procedure~~, and ACJA § 3-302~~;

~~(i)~~ 10. Petition for ~~Approval of Conservator Account~~ approval of conservator intermediate or final account, ~~the~~ including required notices, ~~and the conservator account~~ or verified statement under ~~pursuant to~~ A.R.S. § 14-541~~9,~~ and Rule ~~30.3~~45, Arizona Rules of Probate Procedure,~~; and ACJA § 3-302. This authority does~~ but not ~~include~~ the preparation and filing of documents in ~~contested~~ a probate ~~proceedings pursuant to~~ proceeding that becomes contested with the filing of an objection to the petition under Rule ~~27~~15, Arizona Rules of Probate Procedure~~, when an objection is made to the Petition for Approval of Conservator Account~~;

~~(j)~~ 11. Proof of restricted account, ~~pursuant to~~ under Rule ~~22(C)(3)~~36(b)(2), Arizona Rules of Probate Procedure;

~~(k)~~ 12. Notices to creditors;

~~(l)~~ 13. Status reports;

~~(m)~~ 14. Reports to the court of abuse, neglect, or exploitation of a vulnerable adult ~~pursuant to~~ under A.R.S. § 46-454, et seq.~~;~~

~~(n)~~ 15. A copy of the recorded letters of the ~~conservator~~ conservator's appointment ~~is required to file with the court pursuant to~~ under Rule ~~26(E)~~39, Arizona Rules of Probate Procedure;

~~(o)~~ 16. Proofs of publication, notice, or mailings associated with the above filings; and

~~(p)~~ 17. ~~Fiduciary bond~~ Bond filing under Rule 36(a)(3), Arizona Rules of Probate Procedure.

~~(2)~~ **C. General Information.** A licensed fiduciary ~~May~~ may provide general ~~legal~~ information to ~~the~~ a ward, protected person, and persons entitled to notice~~, pertaining to~~ about the legal rights, procedures, or options available to ~~the ward or protected person~~ them in a legal matter on the condition that the fiduciary not provide any legal advice, opinion, or recommendation.

~~(3) Must not provide any legal advice, opinion, or recommendation about possible legal rights, remedies, defenses, options, or strategies.~~

~~(4)~~**D. Court Hearings.** ~~May~~ A licensed fiduciary may attend court hearings, including the initial ~~appointment~~ hearing for appointment of a guardian, or ~~any appearance~~ hearing at which the fiduciary may be requested to provide testimony or the appearance of the fiduciary is necessary to further the ~~client's~~ ward's, protected person's, or estate's best interests.

~~(5) Must not represent that the fiduciary is authorized to practice law in this state, provide legal services to another by representing another in a judicial, quasi-judicial, or administrative proceeding, or any other formal dispute resolution process, except as authorized by Rule 31, *Arizona Rules of the Supreme Court*. Notwithstanding this prohibition, a fiduciary may attend court with a ward or protected person and may provide general legal information pursuant to subsection (J)(1)(d)(2).~~

~~(6) Must abide by any order entered pursuant to Rule 31, *Arizona Rules of the Supreme Court* and Rule 35, *Arizona Rules of Probate Procedure,* in which the court orders that a licensed~~ the ~~fiduciary must obtain the court's permission to file future pleadings and other papers in a case or cases if the order finds the fiduciary engaged in vexatious conduct in connection with a probate case.~~

Section 7-202.24: Prohibited Conduct

A. Unauthorized Practice of Law. Under Rule 31.1(a)(1), a licensed fiduciary—who is not also an active member in good standing of the State Bar of Arizona under Rule 32—must not practice law, except as authorized under Rule 31.3(e)(3). Under Rule 31(b), the "practice of law" means providing legal advice or services by:

1. Preparing or expressing legal opinions to or for another person;

2. Representing a person in a judicial, quasi-judicial, administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;

3. Preparing a document, in any medium, on behalf of a specific person for filing in any court, administrative agency, or tribunal;

4. Negotiating legal rights or responsibilities on behalf of a specific person; or

5. Preparing a document, in any medium, intended to affect or secure a specific person's legal rights.

B. Misrepresenting Status. A licensed fiduciary must not represent that the fiduciary is authorized to practice law in this state or to provide legal services other than those authorized under ACJA § 7-202.23 and Rule 31.3(e)(3).

C. Suspension of Authority. The court may suspend a licensed fiduciary's authority to perform services in compliance with this article without attorney supervision if the court determines under Rule 31.3(e)(3) that lay representation by the fiduciary is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties.

D. Designations.

1. A fiduciary must not use the designations "lawyer," "attorney at law," "counselor at law," "law office," "JD," "Esq.," or any other words reasonably likely to induce others to believe the fiduciary is authorized to engage in the practice of law in Arizona unless the fiduciary is an active member in good standing of the State Bar of Arizona.

2. A fiduciary must not use or operate under a business name unless the business is a licensed entity under this article.

E. Document Preparation. A licensed fiduciary must not prepare powers of attorney or legal documents other than those listed in ACJA § 7-202.23(B) unless the fiduciary is also a licensed legal document preparer under Article 7 of this chapter and is authorized by the court under ACJA § 7-202.19(C)(2) to provide additional, non-fiduciary document preparation services. This prohibition does not apply to the Arizona Department of Veteran's Services acting under A.R.S. § 41-603(A).

F. Trainees. A fiduciary must not permit or authorize trainees, support staff, or other contracted professionals to provide informed consents or enter into any contractual agreements regarding a ward or protected persons.

SHOWING How Proposed § 7-202.24 Revises Current § 7-202(J)(1)(d)(3)–(7)

Section 7-202.24: Prohibited Conduct

~~(3)~~**A. Unauthorized Practice of Law.** Under Rule 31.1(a)(1), a licensed fiduciary—who is not also an active member in good standing of the State Bar of Arizona under Rule 32~~—Must~~ must not practice law, except as authorized under Rule 31.3(e)(3). Under Rule 31(b), the "practice of law" means ~~provide~~ providing ~~any~~ legal advice~~, opinion, or recommendation about possible legal rights, remedies, defenses, options, or strategies~~ or services by~~.~~:

1. Preparing or expressing legal opinions to or for another person;

2. Representing a person in a judicial, quasi-judicial, administrative proceeding, or other formal dispute resolution process such as arbitration or mediation;

3. Preparing a document, in any medium, on behalf of a specific person for filing in any court, administrative agency, or tribunal;

4. Negotiating legal rights or responsibilities on behalf of a specific person; or

5. Preparing a document, in any medium, intended to affect or secure a specific person's legal rights.

~~(5)~~**B. Misrepresenting Status.** A licensed fiduciary ~~Must~~ must not represent that the fiduciary is authorized to practice law in this state~~,~~ or to provide legal services other than those authorized under ACJA § 7-202.18 and Rule 31.3(e)(3)~~ to another by representing another in a judicial, quasi-judicial, or~~

~~administrative proceeding, or any other formal dispute resolution process, except as authorized by Rule 31, *Arizona Rules of the Supreme Court*. Notwithstanding this prohibition, a fiduciary may attend court with a ward or protected person and may provide general legal information pursuant to subsection (J)(1)(d)(2).~~

~~(6) Must abide by any order entered pursuant to Rule 31, *Arizona Rules of the Supreme Court* and Rule~~ 35, ~~*Arizona Rules of Probate Procedure,* in which the court orders that a licensed~~ the ~~fiduciary must obtain the court's permission to file future pleadings and other papers in a case or cases if the order finds the fiduciary engaged in vexatious conduct in connection with a probate case.~~

~~(7)~~ **C. Suspension of Authority.** The court may suspend a licensed fiduciary's authority to perform services in compliance with this article without attorney supervision ~~May not perform~~ functions ~~listed in (J)(1)(d) if the court has suspended the fiduciary's authority to act pursuant to Rule 31(d)(3) which provides: "A person licensed as a fiduciary pursuant to A.R.S. § 14-5651 may perform services in compliance with Arizona Code of Judicial Administration, Part 7, Chapter 2, Section 7-202. Notwithstanding the foregoing provision, the court may suspend the fiduciary's authority to act without an attorney whenever it~~ if the court determines under Rule 31.3(d)(3) that lay representation by the fiduciary is interfering with the orderly progress of the proceedings or imposing undue burdens on other parties.~~"~~

~~(8)~~ **D. Designations.** ~~Must inform the ward, protected person, and persons entitled to receive notice that the fiduciary is not a lawyer, is not employed by a lawyer, and cannot give legal advice, and that communications with a fiduciary are not privileged.~~ A fiduciary must not use the designations "lawyer," "attorney at law," "counselor at law," "law office," "JD," "Esq.," or ~~other equivalent~~ any other words ~~, the use of which is~~ reasonably likely to induce others to believe the fiduciary is authorized to engage in the practice of law in ~~the State of~~ Arizona~~,~~ unless the fiduciary ~~has been admitted to the practice of law in Arizona and~~ is an active member in good standing of the State Bar of Arizona.

~~(9)~~ **E. Document Preparation.** A licensed fiduciary must not ~~May only~~ prepare powers of attorney or ~~other~~ legal documents other than those listed in ACJA § 7-202.23(B) unless the fiduciary is ~~if~~ also ~~certified as~~ a licensed legal document preparer ~~pursuant to ACJA § 7-208,~~ under Article 7 of this chapter ~~except as provided in subsection (J)(d)(1) or as otherwise ordered by the court~~ and is authorized by the court under ACJA § 7-202.19(C)(2) to provide additional, non-fiduciary document preparation services. This ~~provision~~ prohibition does not apply to the Arizona Department of Veteran's Services ~~pursuant to~~ acting under A.R.S. § 41-603(A).

F. Trainees. A fiduciary must not permit or authorize trainees, support staff, or other contracted professionals to provide informed consents or enter into any contractual agreements regarding a ward or protected persons.

Section 7-202.25: Fiduciary Compensation

A. Reasonable Compensation.

1. A fiduciary is entitled to reasonable compensation for their services.

2. Fees must be related only to fiduciary services, unless the court approves fees for non-fiduciary services under ACJA § 7-202.19(C).

B. Disclosure. The fiduciary must disclose:

1. The basis for their fees, including any rate schedule, to the court during the appointment process;

2. Fee changes; and

3. A projection of annual fees when the fiduciary develops or amends a guardianship plan under ACJA § 7-202.20(A)(6) or a financial plan under ACJA § 7-202.22(D)(1)(k).

C. Reasonableness. In determining whether a fee is reasonable, a fiduciary should consider factors including.

1. The fiduciary's duties and responsibilities under the court appointment;

2. The necessity and quality of the services;

3. Whether the basis for the fee has been disclosed before the service was provided;

4. Whether the amount of the fee is supported by the case budget and the duty to conserve the ward or protected person's estate;

5. The fiduciary's experience, professional standing, training, and skills;

6. The character of the work, including its difficulty, the degree of skill and care required, the work's importance, the time involved, and the level of responsibility undertaken by the fiduciary;

7. The conditions or circumstances under which a service was performed, including emergency matters requiring urgent attention, services provided outside of regular business hours, potential danger (e.g., hazardous materials, contaminated real property, or dangerous persons), or other extraordinary conditions;

8. The attention and skill level required for each task, including whether a different provider could render the service at a lower cost;

9. The benefit of the services to the ward or protected person;

10. The fees customarily paid for like services in the community; and

11. Extent to which the services provided were consistent with the guardian's or conservator's plan.

D. Court Approval.

1. All fees charged to a ward, protected person, or estate by a court-appointed fiduciary must be reviewed and approved by the court except as provided by law.

   a. A fiduciary's request for approval of fees must be made in a petition under Rule 33(c) or (d), Arizona Rules of Probate Procedure.

   b. Rule 33(g), Arizona Rules of Probate Procedure, requires the court to determine the reasonableness of the requested compensation under the statewide fee guidelines in ACJA § 3-303.

2. A fiduciary must seek the court's advance authorization for any proposed fee-generating activity not covered in the appointment order.

Section 7-202.26: Resignation or Termination

A. Authority Terminates.

1. Under Arizona law, including A.R.S. §§ 14-5210, 14-5212, 14-5306, and 14-5307, a court-appointed fiduciary's authority as a guardian or conservator terminates on:

   a. The fiduciary's death, determination of the fiduciary's incapacity, or the fiduciary's resignation, substitution, or removal;

   b. The death of the ward or protected person;

   c. If the ward is a minor, on the adoption or marriage of the ward or when the ward reaches the age of 18; or

   d. When the court orders that the need for protection no longer exists.

2. When a fiduciary's authority terminates, the fiduciary must promptly transfer the ward's or protected person's assets and records as ordered by the court.

B. Termination By Appointing Court. Under Rule 40(b), Arizona Rules of Probate Procedure, before a fiduciary resigns or petitions the court to terminate their responsibilities, "the fiduciary must comply with statutory requirements for withdrawal, including the filing of final reports and accounts."

1. Guardian. A fiduciary may petition the court for permission to resign as guardian under A.R.S. § 14-5212(A).

   a. A petition to resign must include a request for appointment of a successor guardian if the guardianship is not also being terminated.

   b. Under A.R.S. § 14-5210, a guardian's resignation does not terminate a guardian's obligation to account for the ward's monies and assets.

c. If the court approves resignation, the fiduciary must submit the A.R.S. § 14-5315 annual report to the court and submit any other reports required by the court's order.

2. Conservator.

a. Under A.R.S. § 14-5415(A), a court that appointed a fiduciary as a conservator may:

(1) Find that substituting the conservator and appointing a successor is in the best interest of the protected person; or
(2) The conservator may petition to resign.

b. Under A.R.S. § 14-5415(E), before substituting a conservator or accepting a conservator's resignation, the court may:

(1) Require filing appropriate accounts;
(2) Enter orders to preserve and protect the assets of the estate;
(3) Require reimbursement or payment as needed; and
(4) Require the transfer of assets or title to assets to successors.

3. The resignation or substitution of a fiduciary does not terminate the guardianship or conservatorship until a court order to that effect.

C. Involuntary Termination. For purposes of this section, a fiduciary license is involuntarily terminated if it is surrendered under a consent agreement to resolve a complaint or compliance audit in lieu of disciplinary action or to resolve a pending disciplinary matter, revoked, or suspended.

1. Upon the involuntary termination of a fiduciary's license, the division must notify the superior court in each county of the action taken and the fiduciary's disqualification from current and future court appointments.

a. In the case of a license suspension, the notice must include the dates of the fiduciary's suspension.

b. Consistent with Rule 48(d), Arizona Rules of Probate Procedure, the notice must:

(1) Advise the superior court of the unprofessional conduct or violations warranting the action taken; and
(2) Request an order immediately suspending or terminating the guardian's or conservator's authority to take any further action on behalf of a ward, protected person, or estate and appointing a successor or temporary guardian or conservator.

2. Upon the involuntary termination of a fiduciary's license, the former licensee must not act as a fiduciary except as provided in ACJA § 7-209.09(A)(1)–(7).

a. This does not prohibit a fiduciary whose license has been involuntarily terminated from complying with court orders to provide an accounting, the delivery of property and records to the successor or temporary guardian or conservator, and the execution of all instruments required for transfer of estate property.

b. Unless otherwise ordered by the court, a fiduciary whose license has been involuntarily terminated is not required to file final reports and accounts before the involuntary termination is effective.

D. Request to Appoint Conservator of Fiduciary Records. In appropriate cases and under ACJA § 7-201.04(D)(11), the board may authorize the filing of a petition with the presiding probate judge of a superior court for emergency appointment of one or more eligible persons to act as conservators of a fiduciary's client files and records:

1. On the death or incapacity of a licensed fiduciary;

2. If the fiduciary's license has been suspended or revoked; or

3. When necessary to protect the public.

Section 7-202.27: Discipline

A. Sanctions. Complaints against and discipline of licensed fiduciaries are as stated in ACJA §§ 7.201.23 through 7.201.39. Under ACJA § 7-201.30(A)(2)(c)(8), the board's order of discipline may include:

1. Forfeiture of the licensee's cash or surety bond under ACJA § 7-202.08(C)(2)(a).

2. A civil penalty under A.R.S. § 14-5651(D).

   a. The civil penalty must not exceed $500 for each failure or violation and must not exceed a total of $15,000.

   b. The civil penalty is payable to the supreme court for remission to the state treasurer for deposit in the general fund.

B. Suspension or Revocation.

1. Authority.

   a. In addition to ACJA § 7-201.30(A)(2)(c), A.R.S. § 14-5651(D) authorizes the revocation of a fiduciary's license among other sanctions.

   b. Under A.R.S. § 14-5651(D), the board must notify the superior court in each county when a fiduciary's license is revoked.

   c. The board must also notify the superior court in each county when a fiduciary's license is suspended.

2. Effect of Suspension or Revocation.

a. ~~Under A.R.S. §§ 14-5501(F), 14-10820, 36-3221(E), and 36-3223(D),~~ A person whose fiduciary license has been suspended or revoked must not serve:

(1) As an agent under a power of attorney in any capacity unless the person is related to the principal by blood, adoption, or marriage;
(2) As a trustee in any capacity unless the person is related to the beneficiary by blood, adoption, or marriage; or
(3) As a guardian, conservator, or personal representative unless exempt from licensing under ACJA § 7-202.09(A)(1)-(4).

b. The prohibition ~~against serving as an agent under a power of attorney or as a trustee~~ in (a) does not apply if the person's license has been reinstated and is in good standing.

c. A person whose fiduciary license has been revoked or involuntarily terminated is prohibited from having any ownership interest in or control of a licensed entity and must not serve as the designated principal of a licensed entity.

C. Reinstatement After Suspension or Revocation. Reinstatement after license suspension or revocation is governed by ACJA § 7-201.18. Under that section, the person seeking reinstatement must also satisfy this article's requirements for reinstatement:

1. Payment of the reinstatement application fee under ACJA § 7-202.28(D)(4).

2. If the applicant for reinstatement's license was revoked or was suspended but not reinstated after completing the suspension, the applicant must submit a full set of fingerprints.

3. If the applicant for reinstatement's license was suspended, they must establish compliance with the continuing education and license renewal requirements during the suspension period.

4. If the applicant for reinstatement's license was revoked, the applicant must satisfy the number of continuing education hours, if any, that the board specifies as a condition of their reinstatement.

Section 7-202.28: Fee Schedule

~~K. Fee Schedule.~~

~~1~~A. Initial ~~Licensure~~ Licensing Fees.

~~a~~1. Individual ~~Licensure~~ Licensing – private

~~(1)~~a. ~~Licensure~~ License expiring **more** than ~~one~~ 1 year after application date $700.00

~~(2)~~b. ~~Licensure~~ License expiring **less** than ~~one~~ 1 year after application date $350.00

~~(3)~~c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)

~~(4)~~d. Trainee Registration Fee: $100.00

~~b~~2. Individual ~~Licensure~~ Licensing – public

~~(1)~~a. ~~Licensure~~ License expiring **more** than ~~one~~ 1 year after application date $400.00

~~(2)~~b. ~~Licensure~~ License expiring **less** than ~~one~~ 1 year after application date $200.00

~~(3)~~c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)

~~(4)~~d. Trainee Registration Fee: $100.00

~~c~~3. Business ~~Licensure~~ Licensing – private

~~(1)~~a. ~~Licensure~~ License expiring **more** than ~~one~~ 1 year after application date $700.00

~~(2)~~b. ~~Licensure~~ License expiring **less** than ~~one~~ 1 year after application date $350.00

~~d~~4. Business ~~Licensure~~ Licensing - public

~~(1)~~a. ~~Licensure~~ License expiring **more** than ~~one~~ 1 year after application date $400.00

~~(2)~~b. ~~Licensure~~ License expiring **less** than ~~one~~ 1 year after application date $200.00

~~2~~B. Examination Fees.

~~a~~1. Applicants for initial ~~licensure~~ licensing $100.00

~~b~~2. Reexaminations $100.00
(For any applicant who did not pass the examination on the first attempt, the $100.00 fee applies to each reexamination.)

~~c~~3. Reregistration for Examination $100.00
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.)

~~d~~4. The fee for Online Exam Administration~~,~~ – Remote Proctoring is set by the Administrative Director.

~~3~~**C.License Renewal ~~Licensure~~ Fees.** ~~Public fiduciary individuals and businesses may~~ Fiduciary licensees must pay one-half of the appropriate ~~biennial renewal licensure fees annually~~ Biennial Renewal Fee~~,~~ each year between April 1 and April 30 (Annual Renewal Fee). Annual Renewal Fee payments made between May 1 and May 31 must ~~additionally pay~~ include the following ~~late renewal fee~~ Late Renewal Fee. ~~Annual~~ A licensee failing to pay the Annual Renewal Fee ~~payments not made~~ by May 31 ~~may result in~~ is subject to disciplinary action ~~against the license holder~~.

~~a~~1. Biennial Individual Renewal (Private)	$600.00
~~b~~2. Biennial Business Renewal (Private)	$600.00
~~c~~3. Biennial Individual Renewal (Public)	$400.00
~~d~~4. Biennial Business Renewal (Public)	$400.00
~~e~~5. Inactive Status	$200.00
~~f~~6. Late Renewal	$100.00
~~g~~7. Delinquent Continuing Education	$100.00

4**D. Miscellaneous Fees.**

~~a~~1. Replacement of License ~~or Name Change~~	$ 50.00
2. Name Change	$ 50.00
~~b~~3. Public Record Request (per ~~Page Copy~~ page for hard copies)	$ 0.50
~~c~~4. Certificate of Correctness of Copy of Record	$ 18.00
~~d~~5. Reinstatement Application (Application for license reinstatement ~~to licensure~~ after license suspension or revocation ~~of licensure.~~)	$100.00

~~**L. Continuing Education Policies.**~~

~~1. Purpose.~~

~~a. Court appointed fiduciaries have important responsibilities in serving vulnerable and elderly clients. Fiduciaries are required to demonstrate a basic level of competency to become licensed and practice in Arizona. Ongoing continuing education is one means to ensure a licensed fiduciary maintains continuing competence in the fiduciary field after licensure is obtained. It also provides opportunities for fiduciaries to keep abreast~~

~~of changes in the fiduciary and legal professions and the Arizona judicial system.~~

~~b. These continuing education provisions are intended to provide direction to licensed fiduciaries, to ensure compliance with statutes including A.R.S. § 14-5651(C)(5), court rules, this section, and ACJA § 7-201 and to provide for equitable application and enforcement of the continuing education requirements.~~

~~2. Applicability.~~

b. ~~All licensed fiduciaries must complete a minimum of 10 hours of approved continuing education during the 12-month period between each April 1 and March 31 of the following year for a total of no fewer than 20 hours of continuing education by no later than March 31 of every even-numbered year. The continuing education requirements do not apply to fiduciary entities. Of the 10 hours of continuing education each year, at least 1.5 hours each year must be devoted to ethics as provided in subsection (L)(4)(b)(11). Hours used to satisfy the ethics requirement may not also count against the remaining 7.5 hours of each year's required continuing education hours. Excess continuing education hours completed in a year are not transferable to any year other than the one in which they were completed.~~

c. ~~All trainees must complete a minimum of 10 hours of approved continuing education during each year in which they are registered as trainees of which at least 1.5 hours each year must be devoted to ethics as provided in subsection (L)(4)(b)(11).~~

~~3. Responsibilities of Fiduciaries.~~

~~a. It is the responsibility of each fiduciary to ensure compliance with the continuing education requirements, including maintaining documentation of continuing education hours completed, course content, and course materials and submitting such documentation as requested by the division with the renewal application by the renewal deadline.~~

~~b. Upon request, each fiduciary must provide any additional information required by the board or division staff when reviewing the application for renewal of licensure, continuing education applications, and other documentation.~~

~~c. Continuing education not recognized for credit upon board review does not relieve the fiduciary of the responsibility to complete the required hours of continuing education.~~

~~4. Authorized Continuing Education Activities.~~

~~a. Continuing education activity must address the areas of proficiency, competency, and performance of a fiduciary and impart knowledge and understanding of the fiduciary profession, the Arizona judiciary, or the legal process. Continuing education must increase the understanding of the fiduciary's responsibilities and the fiduciary's impact on the judicial process and the public.~~

~~b. Continuing education activity must include one or more of the following subjects:~~

~~(1) Guardianships;~~
~~(2) Conservatorships;~~
~~(3) Personal representatives;~~
~~(4) Trust administration;~~
~~(5) Power of attorney;~~
~~(6) Mental health;~~
~~(7) The Arizona court system including the state and federal constitution, branches of government, Arizona court jurisdiction, the role of judges, and the Arizona tribal court system;~~
~~(8) The Arizona Revised Statutes, Arizona Rules of Court, this section, ACJA § 7-201, case law, administrative orders, and current issues in the Arizona court system relevant to the fiduciary profession;~~
~~(9) The role and responsibilities of the fiduciary including, but not limited to, this section, ACJA § 7-201, and the code of conduct;~~
~~(10) Management issues including office practices, public relations, customer service, accounting, time management, human resources, financial planning, and stress management; and~~
~~(11) Ethics for fiduciaries, including cooperation with lawyers, judges, and fellow fiduciaries; professional attire; courtesy; impartiality to all litigants; information vs. legal advice; and public relations.~~

~~c. Accredited Activities. Subject to the conditions specified in this policy, programs, seminars, and courses of study offered or approved by the following entities are considered accredited continuing education activities:~~

~~(1) Fiduciary Certification Program (FCP);~~
~~(2) The National Guardianship Association (NGA);~~
~~(3) Arizona Fiduciaries Association (AFA);~~
~~(4) National Association of Court Management (NACM);~~
~~(5) State Bar of Arizona, Probate Law and Trust Section;~~
~~(6) State Bar of Arizona, Mental Health and Elder Law Section;~~
~~(7) National Academy of Elder Law Attorneys (NAELA);~~
~~(8) National Association of Geriatric Care Managers (NAGCM);~~
~~(9) National College of Probate Judges; and~~
~~(10) National Association of Social Workers (NASW).~~

~~d. Conferences. If a conference is sponsored by organizations or entities listed in subsection (L)(4)(c), a fiduciary may satisfy all of that year's continuing education requirements at the conference, providing that the fiduciary satisfies the 1.5-hour ethics requirement. Introductory remarks, breaks, meals, business meetings, and general sessions of a conference do not qualify as continuing education hours. The fiduciary must obtain documentation of the specific sessions of the conference attended.~~

~~e. University, College and Other Educational Institution Courses. A fiduciary may receive continuing education credit for completing a course provided by a university, college or other accredited educational institution with a grade of "C" or better or a "pass" on a pass/fail system. Credit is awarded by multiplying the number of credit hours awarded by the educational institution by two. However, the maximum continuing education credits for completion of such courses must not exceed 50 percent of the total number of continuing education hours required for the renewal period.~~

~~f. Authoring or Coauthoring Articles. A fiduciary may receive continuing education~~ credit ~~for authoring or coauthoring an article directly related to the fiduciary profession and published in a state or nationally recognized professional journal relevant to the fiduciary profession or law, if the article is a minimum of 1,000 words in length. A fiduciary may earn a maximum of one hour of continuing education credit for authoring an article or articles in any one renewal period. A fiduciary may not receive credit for the same article published in more than one publication or republished in the same publication in later editions.~~

~~g. Self-Study. A fiduciary may receive continuing education credit for self-study activities, including taking correspondence courses, reviewing procedure manuals, watching video presentations, listening to audio materials, attending online seminars, and other methods of independent learning. The maximum hours of continuing education credits earned in a self-study format must not exceed 50 percent of the total number of continuing education hours required during the certification period. The remaining hours must be obtained through training or education provided by one or more faculty or facilitators to an individual or a group using real-time interaction ("live training").~~

~~h. Serving as Faculty. A fiduciary may receive continuing education credit for serving as an instructor, speaker, faculty, or panel member of a continuing education seminar directly related to the fiduciary profession. The fiduciary may receive credit for the actual presentation time, plus up to two hours of actual preparation time for each hour of presentation time. A fiduciary may receive a maximum of ten hours of continuing education credit for serving as faculty in any renewal period; however, a fiduciary may not receive credit for subsequent presentations of a program during the renewal period. A fiduciary may receive continuing education credit for actual presentation time for duplicate programs presented in subsequent renewal periods but will not receive continuing education credit for preparation time for those duplicated programs.~~

~~i. Mentoring Activities. A fiduciary will not receive credit for mentoring activities.~~

~~5. Minimum Time. Each continuing education activity must consist of at least 30 minutes of "actual clock time" spent by a registrant in actual attendance at and completion of an approved continuing education activity. "Actual clock time" is the total hours attended, minus the time spent for introductory remarks, breaks, meals, and business meetings. After completion of the initial 30 minutes of continuing education activity, a fiduciary may receive credit in fifteen minute increments.~~

~~6. Non-Qualifying Activities.~~

~~a. The following activities do not qualify for continuing education credit:~~

~~(1) Programs completed to qualify for initial licensure;~~
~~(2) Programs with a primary focus on teaching nonverbal skills not directly related to the fiduciary profession;~~
~~(3) Attendance or participation at professional or association business meetings, general sessions, elections, policymaking sessions, or program orientation;~~
~~(4) Serving on committees or councils or as an officer in a professional organization;~~
~~(5) Activities completed as required by the board as part of disciplinary action;~~
~~(6) Any activity completed as ordered by a judicial officer; and~~
~~(7) Activities during which the fiduciary serves as a mentor.~~

~~b. Repeat of an Activity. Generally, a fiduciary may not receive credit for repeating an activity within the same renewal period. Exceptions are permissible if the activity is directly related to the fiduciary profession and duplication of the continuing education activity will enhance the fiduciary's knowledge, skill and competency.~~

~~c. Attendance. A fiduciary must not claim and will not receive credit for attending part, but not all, of an activity.~~

~~7. Documentation of Attendance or Completion. When attending or completing a continuing education activity, a fiduciary must obtain documentation of attendance or completion from the sponsoring entity that must include at least all of the following:~~

~~a. Name of the sponsor;~~

~~b. Name of the participant;~~

~~c. Topic of the subject matter;~~

~~d. Number of hours actually attended or the number of credit hours awarded by the sponsoring entity;~~

~~e. Date and place of the program;~~

~~f. Signature of the sponsor, or documentation representing an official document of the sponsoring entity; for example, a college grade report, etc.; and~~

~~g. Signature of the fiduciary, either in the space specifically provided on the form for this purpose or the fiduciary may sign across the documentation (for example, the college grade report) to indicate attendance and completion of the activity.~~

~~8. Compliance and Non-Compliance.~~

~~a. Affirmation of Compliance. A fiduciary must affirm continuing education compliance when applying for renewal of licensure. The affirmation must be in the format provided by the division.~~

~~b. Proration of Continuing Education. A fiduciary initially licensed during the 6-month period between June 1 and December 31 of the second year of the regular licensure period must complete a total of 10 hours of continuing education credit for that 6-month period, including at least 1.5 hours of ethics. A fiduciary initially licensed during the 3-month period between December 31 and March 31 of the second year of the licensure period must complete 5 hours of continuing education credit for that 3-month period, including at least 1 hour of ethics. In subsequent licensure periods, the fiduciary must comply with (L)(2)(a).~~

~~(1) This proration provision does not apply to a fiduciary who previously held licensure, allowed the licensure to lapse, and subsequently applied for and was granted licensure during the 6-month period between June 1 and December 31 of the second year of the regular licensure period.~~
~~(2) A fiduciary who previously held licensure, allowed the licensure to lapse, and subsequently applied for and was granted licensure during the 6-month period between June 1 of the second year and December 31 of the second year of the regular licensure period is subject to the full 20-hour continuing education requirement 3 hours of which must be devoted to ethics as provided in subsection (L)(4)(b)(11).~~

~~c. Extension or Waiver of Continuing Education Requirements. A fiduciary seeking renewal of licensure who has not fully complied with the continuing education requirements may request an extension or waiver of the continuing education requirements under the following conditions:~~

~~(1) No later than March 31 of the 12-month period in which the extension or waiver is sought, the fiduciary must submit an affirmation to the board stating the facts and circumstances negatively impacting the fiduciary's ability to fully comply with the continuing education requirements for that period and requesting an extension or waiver of the requirements. On a showing of extenuating circumstances, the board may grant an extension of a maximum of 90 days for the fiduciary to complete the continuing education requirement.~~
~~(2) The board must determine whether extenuating circumstances exist. In reviewing the request, the board must consider if the fiduciary has been unable to devote sufficient hours to fulfill the continuing education requirements because of:~~
~~(a) Full-time service in the armed forces of the United States during a substantial part of the licensure period;~~
~~(b) An incapacitating illness documented by a statement from a currently licensed physician treating the fiduciary;~~
~~(c) A physical inability to obtain approved programs documented by a statement from a currently licensed physician treating the fiduciary;~~
~~(d) The fiduciary's retirement from the fiduciary profession and not performing any~~

~~fiduciary services; or~~

(e) ~~Any other special circumstances the board deems appropriate.~~

~~(3) A fiduciary whose license has been restricted, suspended, or revoked by the board is not eligible to request a waiver or extension.~~

~~d. Random Audits of Continuing Education Compliance. During each renewal review period, division staff must randomly select at least 10 percent of fiduciary renewal applications for audit of compliance with continuing education requirements. Refusal or failure to respond to a request from the board or division staff for requested documentation of continuing education compliance may result in denial of renewal of licensure or disciplinary action pursuant to ACJA § 7-201 and this section.~~

~~e. A fiduciary who fails to complete the continuing education requirement, completes any portion of the continuing education requirement late, falsifies documents, or misrepresents attendance or an activity is subject to any or all of the following actions of the board:~~

~~(1) Assessment of the delinquent continuing education fee;~~
~~(2) Denial of renewal of licensure; and~~
~~(3) Disciplinary action under ACJA § 7-201(H) and this section.~~

~~9. Board Decision Regarding Continuing Education Compliance.~~

~~a. Upon a review of continuing education documentation and any applicable additional information requested, the board may:~~

~~(1) Recognize fiduciary compliance with the continuing education requirement;~~
~~(2) Require additional information from the fiduciary seeking renewal before making a decision;~~
~~(3) Recognize partial compliance with the requirement and order remedial measures; or~~
~~(4) Enter a finding of non-compliance.~~

~~b. Division staff must notify the fiduciary, in writing, within ten days of the board's decision. A fiduciary may appeal the decision of the board by submitting a written request for review to the division within 15 days of the date of the notice of the board's decision. The fiduciary may request to appear before the board at the next available regularly scheduled board meeting.~~

~~c. The license of a fiduciary who timely appeals a decision by the board regarding continuing education will remain active until a final decision is made by the board.~~

~~d. The board must issue a written decision on the appeal. The decision is final and binding.~~

~~10. In addition to the provisions of this subsection, the board may require a fiduciary who~~

~~allows his or her license to lapse or who has been in an inactive status to provide documentation of completion of the required number of continuing education credits for the prior licensure period.~~