

1 **1-145. [~~Conservatorship~~] Guardianship and conservatorship proceedings; professional**
2 **guardians and conservators; procedures and time limits for filing reports and financial**
3 **statements.**

4 A. **Scope; computation of time.** This rule governs the filing of reports by a
5 professional conservator in a conservatorship proceeding under NMSA 1978, Section 45-5-409
6 [~~NMSA 1978~~] or by a professional guardian under NMSA 1978, Section 45-5-314. See Rule 1-
7 142(B) NMRA (defining the term “professional[~~. . .~~] guardian or conservator”). All time periods
8 set forth in this rule shall be computed in accordance with the provisions of Rule 1-006(A) NMRA,
9 unless otherwise indicated.

10 B. **Appointment.** On the filing of a petition for the appointment of a guardian or
11 conservator the court, taking into account the priorities set forth in [~~Section~~] NMSA 1978, Sections
12 45-5-311(A) and 45-5-410(A) [~~NMSA 1978~~], may appoint a professional guardian or conservator.

13 C. **Timing of reports.** An order of appointment under Paragraph B of this rule shall
14 require the professional guardian or conservator to file a report, substantially in compliance with
15 [~~Form~~]Forms 4-996, 4-997 and 4-998 NMRA, within the following time limits:

16 (1) in the case of an annual report, within thirty (30) days after the anniversary
17 date of the professional guardian or conservator’s appointment;

18 (2) in the case of all other reports, within sixty (60) days after the professional
19 guardian or conservator’s resignation, removal, or termination, whichever is applicable; or

20 (3) a reasonable period of time as determined by the court beyond the deadlines
21 specified in Subparagraphs (1) and (2) of this paragraph.

22 D. **Filing and service of reports.** A professional guardian’s or conservator’s report
23 shall be filed in the court in which the case is currently assigned, with copies served on

1 (1) the protected person ~~[, consistent with the provisions of Rule 1-004.1(C)~~
2 NMRA];

3 (2) the protected person’s guardian and/or conservator, if one has been
4 appointed ~~[any, in accordance with the provisions of Rules 1-004.1(D) and 1-005 NMRA]~~; and

5 (3) ~~[the district judge currently assigned to the case, in accordance with the~~
6 ~~provisions of Rules 1-004.1(D) and 1-005 NMRA]~~ other persons specified in Form 4-993 NMRA.

7 E. **Required documents; financial statements; separate confidential filing.**

8 (1) Every report filed by a professional conservator shall require a separate
9 confidential filing of financial statements that detail the following:

10 (a) all income and assets reported, respectively, in Sections II and IV
11 of Form 4-998; ~~[and]~~

12 (b) all expenses and debts reported, respectively, in Sections III and V
13 of Form 4-998~~[-]~~; and

14 (c) any other financial statements or information.

15 (2) Every report filed by a professional guardian shall require a separate
16 confidential filing of financial statements if any financial documents or financial statements are
17 included in the professional guardian’s report.

18 ~~[(2)](3)~~ For purposes of this rule, the term “financial statements” shall mean written
19 documentation in any form from a third-party financial institution that reflects one or more of the
20 relevant individual transactions for or on behalf of the protected person that occurred during the
21 period covered in the report.

22 ~~[(3)](4)~~ Considering the confidential nature of the information contained in the
23 financial statements, the separate confidential filing shall

1 (a) be filed contemporaneously with ~~[Form]~~ Forms 4-996, 4-997, or 4-
2 998;

3 (b) be automatically sealed by the court, without the need for a separate
4 court order;

5 (c) include a cover sheet captioned “Sealed—Confidential
6 Information,” substantially in conformance with Form 4-998.1 NMRA, that indicates the total
7 number of pages, excluding the cover sheet, being filed;

8 (d) not redact any confidential information;

9 (e) not be disclosed to any person or entity other than the State Auditor
10 as provided in Paragraph F of this Rule, unless authorized by court order. Absent a court order,
11 ~~[and notwithstanding the provisions of Rule 1-079.1(C)(4) NMRA,]~~ the confidential filing
12 required under this Paragraph shall not be disclosed to the protected person, the parties to the
13 proceeding, a court-appointed guardian, a court-appointed conservator, or counsel of record and
14 their employees.

15 F. **Audit process.**

16 (1) The court shall forward a professional conservator’s report and all financial
17 statements to the State Auditor for review within five (5) days of the court’s receipt of those
18 documents.

19 (2) The State Auditor shall submit, within fifteen (15) business days of
20 receiving a professional conservator’s report and all financial statements from the court, one of the
21 following:

22 (a) a letter of review declining to conduct an audit;

23 (b) a letter of acceptance to conduct an audit; or

1 (c) a letter requesting that the professional conservator submit
2 additional information or financial statements to help assess whether an audit is warranted or
3 appropriate.

4 (3) The professional conservator shall comply with any request made by the
5 State Auditor for additional information or financial statements within fifteen (15) business days
6 of receiving the request. For good cause shown, the court may extend the time limit governing the
7 professional conservator’s response for an additional period of up to fifteen (15) business days.

8 (a) If, in the opinion of the State Auditor, the professional conservator’s
9 response satisfactorily provides the requested information or financial statements missing from the
10 initial submission, the State Auditor shall submit the following within fifteen (15) business days
11 of receiving the response:

- 12 (i) a letter of review declining to conduct an audit, or
13 (ii) a letter of acceptance to conduct an audit.

14 (b) If the professional conservator fails to respond to the State Auditor’s
15 request or if, in the opinion of the State Auditor, a submitted response lacks the requested
16 information or financial statements, the State Auditor shall promptly notify the court of the
17 professional conservator’s lapse. The court, in turn, shall set the matter for a status conference, at
18 which the professional conservator, appearing through counsel, shall advise the court of the reason
19 for the delayed or inadequate response. Any costs associated with preparing for and appearing at
20 the status conference shall be borne by the professional conservator and shall not be charged to the
21 protected person’s estate. The court may issue any order, up to and including an order holding the
22 professional conservator in contempt, appropriate to promote the efficient processing of the report.

1 (4) If the State Auditor decides to conduct an audit of the contents in the
2 professional conservator’s report without requesting additional information or financial
3 statements, an audit report shall be filed with the court within ninety (90) days of the State
4 Auditor’s submission of the letter of acceptance to conduct an audit. If the State Auditor decides
5 to conduct an audit of the contents in the professional conservator’s report after requesting and
6 receiving additional information or financial statements, an audit report shall be filed with the court
7 within ninety (90) days of the professional conservator’s submission of the additional information
8 or financial statements.

9 G. **Costs incurred.** Any costs incurred by the State Auditor in exercising its authority
10 to subpoena documents, records, or statements under Section 45-5-409(H) NMSA 1978 shall be
11 borne by the professional conservator and shall not be charged to the protected person’s estate.

12 [Provisionally adopted by Supreme Court Order No. 22-8300-005, effective for all cases filed or
13 pending on or after March 16, 2022; provisionally adopted rule approved as amended by Supreme
14 Court Order No. S-1-RCR-2025-00172, effective for all cases pending or filed on or after
15 December 31, 2025.]