ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
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

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

"Active and direct supervision" means the routine and regular monitoring and control exercised by a licensed fiduciary or designated principal over other licensed fiduciaries, professionals, trainees, and support staff performing or assisting the performance of authorized services delegated by the supervising licensed fiduciary or designated principal. Active and direct supervision does not require the supervisor's constant physical presence if they are able—by radio, telephone, or electronic communication—to maintain the contact necessary to exercise the degree of monitoring and control required for active and direct supervision.

"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" under A.R.S. § 14-1201(10).

"Department director" means 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" under A.R.S. § 14-1201(14).

"Devisee" means "a person designated in a will to receive a devise" 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(J) and (K)(1), means:

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

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

    b. 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.

    c. A public fiduciary as defined in this section.

    d. 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" has the meaning given in A.R.S. § 14-5651(K)(2):

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

"Guardian" 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."

"Guardian ad litem" means an individual who 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" has the meaning given in A.R.S. § 14-5101: "a minor for whom a guardian has been appointed solely because of minority."

"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 given in A.R.S. § 14-1201 as including: "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 division staff assigned to administer the fiduciary program.

"Public fiduciary" means the office of the public fiduciary and the individual appointed by the board of supervisors in each county, 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.

"Protected person" 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."

"Related" means a 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 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, great nephew or 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 an individual registered with the division and eligible to obtain the work experience required for fiduciary licensing under ACJA §§ 7-202.05(B) and 7-202.06.

"Ward" has the meaning given in A.R.S. § 14-5101: "a person for whom a guardian has been appointed."

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.

Section 7-202.03: Administration

A. Supreme Court.

1. The supreme court administers the fiduciary licensing program, including the adoption of rules and establishing and collecting the fees necessary to implement the program, under A.R.S. § 14-5651(A).

2. Under A.R.S. §§ 35-146 and 35-147, the supreme court must deposit the monies collected in administering the fiduciary program in the confidential intermediary and fiduciary fund established by A.R.S. § 8-135.

B. Division Staff. In addition to assisting in the administration of the fiduciary licensing program under ACJA § 7-201.03(D), division staff serves as every licensed fiduciary's lawful agent for accepting service of process in any lawsuit or legal proceeding involving the fiduciary's actions as a fiduciary under A.R.S. § 14-5651.

Section 7-202.04: Fiduciary Board

A. Duties. The fiduciary board exercises the authority and has the duties stated in ACJA § 7-201.04(D) and whenever board action is provided for under this chapter.

B. Composition. The fiduciary board has 11 members consisting of:

1. Three licensed fiduciaries who have worked as licensed fiduciaries in private practice for at least 5 years;

2. Two licensed fiduciaries who have worked as licensed fiduciaries in a public office for at least 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

A. Personal Qualifications.

1. Under A.R.S. § 14-5651(C), an individual applicant for a fiduciary license must:

    a. Be at least 21 years old;

    b. Be a citizen of the United States; and

    c. Not have been convicted of a felony.

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 experience under one of the following options:

    a. Option 1.

        (1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
        (2) A minimum of 3 years of full-time equivalent work experience within the 10 years preceding application.

    b. Option 2.

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

(2) A minimum of 1 year of full-time equivalent work experience within the 5 years preceding application.

c. Option 3.

(1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test;
(2) A minimum of 2 years of work experience within the 10 years preceding application; and one of the following:
  (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. Option 4.

(1) A juris doctor degree from a law school 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 admitted to the active practice of law in any jurisdiction and in good standing or resigned in good standing in all jurisdictions where the applicant has been admitted.

e. Option 5.

(1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
(2) Service as a foreign fiduciary appointed by court order; and
(3) A minimum of 3 years of work experience as a fiduciary.

f. Option 6.

(1) A high school diploma or general equivalency diploma evidencing the passing of the general education development test; and
(2) A registered master guardian certification in good standing with the National Guardianship Association.

2. Work experience modification. 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 accept an applicant's work experience over a greater number of years than those specified. But the board may not grant any exception to the total number of years of work experience required.

Section 7-202.06: Trainees

A. Trainee 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) must:

   a. Work under the active and direct supervision of a licensed fiduciary or designated principal in compliance with this section.

   b. Submit a completed trainee registration form to the division.

   c. Pay the registration fee under ACJA § 7-202.28(A)(1)(d), which covers the cost of trainee registration and 1 examination administration.

   d. Submit a full set of fingerprints under ACJA § 7-201.10(B)(4) and A.R.S. § 14-5651(B).

   e. Comply with the continuing education requirement for trainees under ACJA § 7-202.13.

2. The following requirements must be met for a trainee's 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.

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

3. Appoint the fiduciary program coordinator as their agent for accepting service of process in any matter regarding their duties as a fiduciary; and

4. 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).

Section 7-202.09: Exemptions

A. Licensing Exemptions. Licensing is not required for:

1. Any person 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 under A.R.S. § 14-4205;

7. Any person serving as a foreign conservator under A.R.S. §§ 14-5431 and 14-5432;

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

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

10. 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 seeking court appointment as a conservator, guardian, or personal representative with a temporary license exemption must file an application for exemption on a prescribed form with the clerk of the superior court in the county where the appointment is requested.

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

   (1) 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 the good cause determination and the finding under (1), the presiding judge or designated judicial officer may consider:
      (a) The nature of applicant's relationship with the ward, protected person, or deceased person.
      (b) The type of decisions the fiduciary may make.
      (c) The amount of assets the fiduciary must manage.
      (d) Any limitations or conditions on the appointment.
      (e) The estimated cost of the fiduciary and associated professional fees the applicant must charge.
      (f) That the applicant is not acting as a fiduciary in any other case where they are not related to the ward or protected person by blood or marriage.
      (g) That the applicant has known the ward, protected person, or deceased person for at least 2 years.
      (h) That no prejudice or harm is likely to occur if the exemption is granted.
      (i) That there is an emergency need for the exemption;
      (j) That no relative is willing and able to serve.
      (k) That no licensed fiduciary is willing and able to serve.
   (3) The presiding judge or designated judicial officer may hold a hearing or request additional information in order to make the necessary findings.
   (4) If the presiding judge or designated judicial officer enters an order granting an exemption, the following restrictions apply:
      (a) Temporary appointment is effective for up to 90 days and may be extended once for up to another 90 days;
      (b) If the appointee's application is not already pending, the appointee must file their fiduciary license application with the division; and
      (c) The appointee must not receive any compensation in any form for serving as a fiduciary under a temporary license exemption. Reimbursement for reasonable expenses with court approval is not prohibited.
   (5) Within 15 days of granting a temporary license exemption, the presiding judge or designated judicial officer must forward a copy of the application for exemption and the appointment order granting the temporary licensing exemption 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.

B. **Discretionary Denial.** In addition to the grounds for discretionary denial under ACJA § 7-201.12(B), the board may deny licensing to an applicant:

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

2. If an officer, director, partner, member, trustee, or manager of the applicant has 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).

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.

B. **License Designation.** The fiduciary license must clearly state whether the licensee operates under one of the affiliations in (A)(1) through (A)(4) or independently.

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 division with 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.

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 calendar year and March 31 of the next calendar 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 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).

   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 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.

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 the continuing education requirement. 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).

Section 7-202.14: License Renewal

A. **Authority.** Fiduciary license renewal is governed by ACJA § 7-201.19 and this section.

B. **Timing.**

1. Expiration date. Fiduciary licenses expire at midnight on May 31 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 filed with the division 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.

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.

2. Continuing Education. A licensed fiduciary must affirm continuing education compliance under ACJA § 7-202.13(C)(3) when applying for license renewal.

3. Business entities. A business entity's license renewal application must include a letter of good standing from either the Arizona Corporation Commission or the Arizona Secretary of State as determined by the type of business entity.

D. Renewal Decision.

1. 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.

2. 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; or

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

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).

Section 7-202.16: Fiduciary Code of Conduct

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 § 7-201.23;

8. Prohibited conduct under ACJA § 7-202.24;

9. Fiduciary compensation under ACJA § 7-202.25; and

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

Section 7-202.17: Relationship to Court

A. Applicable Law. A fiduciary must perform all duties and discharge all obligations in accordance with current Arizona and federal law.

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 fiduciary has questions about the meaning of a court's order or directions, a fiduciary must seek clarification from the court before taking action to comply with the order or directions.

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

C. Information to the Court. A fiduciary must:

1. Under the Arizona Rules of Probate Procedure, inform the court of a permanent change in the location or the death of a ward or protected person.

2. Ensure that reports, notices, financial accounts, and other documents are timely, complete, accurate, understandable, in a form acceptable to the court, and consistent with applicable law.

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. A ward for an order that the ward is no longer incapacitated;

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

   c. 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.

Section 7-202.18: Decision-Making

A. Degree of Care. A fiduciary must exercise extreme care and diligence when making decisions for a ward or protected person.

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.

   b. A fiduciary must make all reasonable efforts to determine the person's past and current preferences 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. A fiduciary must make decisions 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 person's determined preference will result in substantial harm to the 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.

4. Expertise. A fiduciary must maintain an awareness of the limitations of their own expertise; 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.

5. Responsibility. 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 fiduciary must maintain accurate and complete records to support the decisions made.

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.

Section 7-202.20: Guardian of Person

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 fiduciary acting as a guardian is entitled to legal custody of the 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.

2. The fiduciary or the fiduciary's qualified representative must, absent good cause, visit and assess the ward 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, is responsible for providing informed consent on behalf of the ward for the ward's care, treatment, and services.

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

2. Living arrangements.

   a. The fiduciary must become informed about the options and alternatives available for the ward's 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.
      (4) 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.
      (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) Work cooperatively with available community-based organizations to assist in ensuring the ward or protected person resides in a non-institutional environment.
      (8) Monitor the placement of the ward or protected person to ensure the continued appropriateness of the placement.
      (9) Consent to changes as they become necessary or advantageous for the ward.

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.

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.

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.

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.

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.

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.

B. Standard.

1. Under A.R.S. § 14-5417, a fiduciary appointed as a conservator, or as a guardian if no conservator is appointed, must observe the standard of care applicable to trustees under A.R.S. §§ 14-10804 and 14-10806:

a. The fiduciary must manage the estate as a prudent person would. The duty of prudence requires exercising reasonable care, skill, and caution.

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 must 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.

C. Upon Appointment. Upon appointment, the fiduciary must:

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.

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 A.R.S. § 14-5418(C).

2. Personal Representative. In addition to the duties under (1), a fiduciary acting as personal representative:

   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.

   b. On appointment, must review the laws, court rules, and regulations governing management of a decedent's estate and must stay current on changes to these provisions.

   c. Prepare complete, accurate, and understandable court documents, including petitions for determination of heirs, inventories, accounts, and closing statements.

3. 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.

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.

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.

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.

   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; or

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

b. 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. 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

A. Initial Licensing Fees.

1. Individual Licensing – private

a. License expiring **more** than 1 year after application date	$700.00
b. License expiring **less** than 1 year after application date	$350.00
c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)	
d. Trainee Registration Fee:	$100.00

2. Individual Licensing – public

    a. License expiring **more** than 1 year after application date $400.00

    b. License expiring **less** than 1 year after application date $200.00

    c. Fingerprint application processing fee (Rate set by Arizona law and subject to change)

    d. Trainee Registration Fee: $100.00

3. Business Licensing – private

    a. License expiring **more** than 1 year after application date $700.00

    b. License expiring **less** than 1 year after application date $350.00

4. Business Licensing – public

    a. License expiring **more** than 1 year after application date $400.00

    b. License expiring **less** than 1 year after application date $200.00

B. Examination Fees.

1. Applicants for initial licensing $100.00

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.)

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.)

4. The fee for Online Exam Administration – Remote Proctoring is set by the Administrative Director.

C. License Fees. Fiduciary licensees must pay one-half of the appropriate 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 include the following Late Renewal Fee. A licensee failing to pay the Annual Renewal Fee by May 31 is subject to disciplinary action.

1. Biennial Individual Renewal (Private) $600.00

2. Biennial Business Renewal (Private) $600.00

3. Biennial Individual Renewal (Public)$400.00

4. Biennial Business Renewal (Public) $400.00

5. Inactive Status $200.00

6. Late Renewal $100.00

7. Delinquent Continuing Education $100.00

D. Miscellaneous Fees.

1. Replacement of License $ 50.00

2. Name Change $ 50.00

3. Public Record Request (per page for hard copies) $ 0.50

4. Certificate of Correctness of Copy of Record $ 18.00

5. Reinstatement Application $100.00
   (Application for license reinstatement after license suspension or revocation)