

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 64.2-2011 and 64.2-2014 of the Code of Virginia, relating to guardianship;*
 3 *copy of appointment, termination, or modification order; Department of Medical Assistance Services.*

4 [S 216]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That §§ 64.2-2011 and 64.2-2014 of the Code of Virginia are amended and reenacted as follows:**8 **§ 64.2-2011. Qualification of guardian or conservator; clerk to record order and issue certificate;**
 9 **reliance on certificate.**10 A. A guardian or conservator appointed in the court order shall qualify before the clerk upon the
 11 following:12 1. Subscribing to an oath promising to faithfully perform the duties of the office in accordance with all
 13 provisions of this chapter;14 2. Posting of bond, but no surety shall be required on the bond of the guardian, and the conservator's bond
 15 may be with or without surety, as ordered by the court; and16 3. Acceptance in writing by the guardian or conservator of any educational materials provided by the
 17 court.18 B. Upon qualification, the clerk shall issue to the guardian or conservator a certificate with a copy of the
 19 order of appointment appended thereto. The clerk shall record the order in the same manner as a power of
 20 attorney would be recorded and shall, in addition to the requirements of § 64.2-2014, provide a copy of the
 21 order to the commissioner of accounts. It shall be the duty of a conservator having the power to sell real
 22 estate to record the order in the office of the clerk of any jurisdiction where the respondent owns real
 23 property. If the order appoints a guardian, the clerk shall promptly forward a copy of the order of
 24 appointment and a copy of the certificate of qualification to the local department of social services in the
 25 jurisdiction where the respondent then resides ~~and a copy of the order of appointment to the Department of~~
 26 ~~Medical Assistance Services.~~27 C. A conservator shall have all powers granted pursuant to § 64.2-2021 as are necessary and proper for the
 28 performance of his duties in accordance with this chapter, subject to the limitations that are prescribed in the
 29 order. The powers granted to a guardian shall only be those powers enumerated in the court order.30 D. Any individual or entity conducting business in good faith with a guardian or conservator who presents
 31 a currently effective certificate of qualification may presume that the guardian or conservator is properly
 32 authorized to act as to any matter or transaction, except to the extent of any limitations upon the fiduciary's
 33 powers contained in the court's order of appointment.34 1. A person that refuses in violation of this subsection to accept a certificate of qualification is subject to
 35 (i) a court order mandating acceptance of the certificate of qualification and (ii) liability for reasonable
 36 attorney fees and costs incurred in any action or proceeding that confirms the validity of the certificate of
 37 qualification or mandates acceptance of the certificate of qualification.38 2. A person shall either accept or reject a certificate of qualification no later than seven business days after
 39 presentation of such certificate of qualification for acceptance. A person is not required to accept a certificate
 40 of qualification for a transaction if:41 a. Engaging in the transaction with the guardian or conservator would be inconsistent with state or federal
 42 law;43 b. The person has actual knowledge of the termination of the authority of the guardian or conservator or of
 44 the certificate of qualification before exercise of the power;45 c. The person in good faith believes that the certificate of qualification is not valid or that the guardian or
 46 conservator does not have the authority to perform the act requested; or47 d. The person believes in good faith that the transaction may involve, facilitate, result in, or contribute to
 48 financial exploitation.49 **§ 64.2-2014. Clerk to index findings of incapacity or restoration; notice of findings.**50 A. A copy of the court's findings that a person is incapacitated or has been restored to capacity, or a copy
 51 of any order appointing a conservator or guardian pursuant to § 64.2-2115, shall be filed by the judge with the
 52 clerk of the circuit court for the county or city where the hearing took place as soon as practicable, but no
 53 later than the close of business on the next business day following the completion of the hearing. The clerk
 54 shall properly index the findings in the index to deed books by reference to the order book and page whereon
 55 the order is spread and shall immediately notify the Commissioner of Behavioral Health and Developmental
 56 Services in accordance with § 64.2-2028, the commissioner of accounts in order to ensure compliance by a

ENROLLED

SB216ER

57 conservator with the duties imposed pursuant to §§ 64.2-2021, 64.2-2022, 64.2-2023, and 64.2-2026, and the
58 Commissioner of Elections with the information required by § 24.2-410. If a guardian is appointed, the clerk
59 shall forward a copy of the court order to the local department of social services of the jurisdiction where the
60 person then resides ~~and to the Department of Medical Assistance Services~~. If a guardianship is terminated or
61 otherwise modified, the clerk shall forward a copy of the court order to the local department of social services
62 to which the original order of appointment was forwarded; *and* to the local department of social services in
63 the jurisdiction where the person then resides, if different from the department to which the original order
64 was forwarded; ~~and to the Department of Medical Assistance Services~~.

65 B. The clerk shall, as soon as practicable, but no later than the close of business on the following business
66 day, certify and forward upon receipt to the Central Criminal Records Exchange, on a form provided by the
67 Exchange, a copy of any order adjudicating a person incapacitated under this article, any order appointing a
68 conservator or guardian pursuant to § 64.2-2115, and any order of restoration of capacity under § 64.2-2012.
69 Except as provided in subdivision A 1 of § 19.2-389, the copy of the form and the order shall be kept
70 confidential in a separate file and used only to determine a person's eligibility to possess, purchase, or transfer
71 a firearm.