WEST VIRGINIA CODE: §44A-3-7

§44A-3-7. Estate planning.

(a) Upon petition, the court may authorize a conservator to exercise the following powers over the estate or financial affairs of a protected person which the protected person could have exercised if he or she were not subject to conservatorship:

(1) To make gifts to charity or other donees and to convey interests in any property;

(2) To provide support for individuals who are not legal dependents;

(3) To amend or revoke trusts or to create or make additions to revocable or irrevocable trusts even though such trusts may extend beyond the life of the protected person;

(4) To disclaim, renounce, or release any interest or power, or to exercise any power;

(5) To exercise options or change the beneficiary on or withdraw the cash value of any life insurance policy, annuity policy, or retirement plan;

(6) To elect against the estate of the protected person’s spouse;

(7) To withdraw funds from multiple party bank accounts, to change the beneficiary on or dispose of any payable or transfer on death arrangement, or to dispose of any property specifically devised or bequeathed under the protected person’s will.

(b) The court, in authorizing the conservator to exercise any of the above powers, shall primarily consider the decision which the protected person would have made, to the extent that the decision can be ascertained. The court shall also consider the financial needs of the protected person and the needs of legal dependents for support, possible reduction of income, estate, inheritance or other tax liabilities, eligibility for governmental assistance, the protected person’s prior pattern of giving or level of support, the existing estate plan, the protected person’s probable life expectancy, the probability that the conservatorship will terminate prior to the protected person’s death, and any other factors which the court believes pertinent.

(c) No order may be entered under this section unless notice of hearing is first given to the protected person, to the beneficiaries of the protected person’s estate plan and to the individuals who would succeed to the protected person's estate by intestate succession. No trust may be amended or revoked without prior notice of hearing to the trustee thereof.

(d) In making a determination under this section, the court shall be entitled to compel the production of documents, including the protected person's will.

(e) Nothing in this section shall be construed to create a duty on the part of a conservator to

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revise a protected person's estate plan.

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