

Part 806.17

Examiners of Reports of Guardians,
Committees and Conservators
Pursuant to Article 81 of the Mental Hygiene Law

Section

806.17(a) Appointment

806.17(b) Duties of Examiners

806.17(c) Compensation

(a) Appointment. Annually in the month of December, the presiding justice shall appoint examiners of the reports of guardians, as well as of committees and conservators appointed prior to April 1, 1993, in accordance with section 81.32(b) of the Mental Hygiene Law.

(b) Duties of examiners.

1) The examiner appointed by the presiding justice shall examine initial and annual reports within the times and in the manner required by section 81.32(a) of the Mental Hygiene Law.

2) The examiner shall file a report, with regard to an initial or annual report of a guardian, within 60 days after the filing of such report. Examiner's reports shall be in the form prescribed by the order appointing the examiner.

3) Examiner's reports shall, on five days notice to the guardian, committee or conservator, be filed in the office of the clerk of the court which appointed the guardian, committee or conservator. A copy of the examiner's report shall, within five days of the date of such filing, also be filed with the office of the Clerk of the Appellate Division, Third Department.

4) If a guardian, committee or conservator shall fail to file a report within the time specified by law, or shall file an incomplete report, the examiner shall serve a demand and take the other steps necessary to insure compliance as set forth in section 81.32(c) and (d) of the Mental Hygiene Law.

5) In his or her discretion, the examiner may examine the guardian, committee or conservator and other witnesses under oath and reduce their testimony to writing.

(c) Compensation.

1) For examination of an initial report, an examiner shall be entitled to a fee of

\$100 and to reimbursement for necessary and reasonable disbursements.

2) For examination of an annual report, an examiner shall be entitled to reimbursement for necessary and reasonable disbursements and to a fee fixed in accordance with the following schedule:

<u>Closing balance of estate examined:</u>	<u>Fee</u>
Under \$5,000	\$ 150.00
\$ 5,001 - 25,000	\$ 200.00
\$ 25,001 - 50,000	\$ 250.00
\$ 50,001 - 100,000	\$ 300.00
\$ 100,001 - 150,000	\$ 400.00
\$ 150,001 - 225,000	\$ 500.00
\$ 225,001 - 350,000	\$ 600.00
\$ 350,001 - 500,000	\$ 700.00
\$ 500,001 - 750,000	\$ 800.00
\$ 750,001 - 1,000,000	\$ 900.00
Over \$ 1,000,000	\$1,000.00

The fee shall be computed on the net value of the estate at the end of the calendar year for which the guardian's report has been submitted. A fee in excess of the amount set forth in the above schedule may be awarded upon a showing of extraordinary circumstances.

3) The fee for examination of annual reports filed for previous years shall be fixed on a quantum merit basis.

4) The examiner's claim for a fee and disbursements in estates of less than \$5,000 shall be made by standard state voucher and shall be approved by the Presiding Justice or his or her designee.

In estates of \$5,000 or more, the examiner's claim for a fee and disbursements shall be set forth in the examiner's report and shall be approved by order of the Presiding Justice for payment by the estate.

5) Within 15 days after receipt of an order directing payment by the estate of the examiner's fee and disbursements, the guardian, committee or conservator may, by written request, upon notice to the examiner, apply to the Presiding Justice for review and reconsideration of any allowance deemed excessive.