

Part 806.30

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

(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 Mental Hygiene Law § 81.32 (b).

(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 Mental Hygiene Law § 81.32 (a).

(2) The examiner shall file a report, with regard to an initial report of a guardian, within 60 days after the filing of such report. With respect to an annual report filed in the month of May, the examiner's report shall be filed on or before September 15th of the same year. When a court has authorized the filing of an annual report at any other time, the examiner's report shall be filed within 90 days thereafter. 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 Mental Hygiene Law § 81.32 (c) and (d).

(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 for estates having a net value of \$5000 or less, and of \$150 for all other estates, 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:

Closing balance of estate examined:	Fee:
Up to \$5,000	\$150
5,001 - 25,000	250
25,001 - 50,000	300
50,001 - 100,000	500
100,001 - 150,000	650
150,001 - 225,000	800
225,001 - 350,000	950
350,001 - 500,000	1,100
500,001 - 750,000	1,250
750,001 - 1,000,000	1,400
Over 1,000,000	Additional fee of \$30 for each \$25,000 in net value over \$1,000,000, with a maximum fee of \$5,000

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 meruit basis.

(4) The examiner's claim for a fee and disbursements in estates of up to \$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 more than \$5,000, 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.

October 31, 2016 revised