

### **What is a Conservatorship?**

A conservatorship is where a person is appointed for a client and is responsible for his or her living arrangements, financial and legal matters, as well as medical and mental health treatment. The conservator can be a relative, friend, or the Public Guardian's Office. The Public Guardian is the last resort if no one else is able or willing to serve. The Superior Court will make this determination.

For a client to be considered for conservatorship, he or she will have to meet the criteria for the legal standard for "grave disability". This means that the person is unable to provide for their basic personal needs for food, clothing or shelter as a result of having a mental illness or the impairment as the result of chronic alcoholism.

The decision that a person meets these criteria is determined by several measurements—psychiatric history, behavioral functions and treatment compliance, family input, and treatment team recommendations.

If a person does meet the criteria and is in need of conservatorship, a referral by a mental health professional (designated by the OC Mental Health Services Director) submits a "Declaration in Support of Appointment of Temporary Conservatorship". This referral is sent to the Public Guardian's office where it will be reviewed.

If the

referral is accepted, it is then assigned to an investigating deputy who will do a thorough investigation by looking into the person's medical, psychiatric, social and financial records, as well as talking with relatives and friends.

### **Whom do I contact regarding a Conservatorship?**

It can be difficult for families who have a family member diagnosed with a mental illness and need for conservatorship. You may have concerns about someone's current placement, or about the conservatee's funds, and perhaps a need for your own support. There is support available and people to answer these questions.

Please understand that when dealing with mental health, confidentiality laws restrict our ability to freely provide information. It may be impossible to gain information from the treating facility if a no-consent-to-release-information is on file. It is best to first contact the Deputy Public Guardian involved to find out if information can be shared, or you can contact the Care Coordinator for the same information.

If for some reason information cannot be provided, you may still provide important historical information about your family member or friend, which could assist in the treatment of that person.

#### **Public Guardian's Office - (714) 567-7660**

You can call and ask to speak to the Officer of the Day. This person can answer general questions regarding conservatorships, which would include questions regarding legal issues and finances, and can direct you to the deputy involved to answer specific questions about a Conservatee.

#### **LPS Mental Health Services- (714) 567-7688**

By calling and asking for the Officer of the Day, you can request information about placement, particular mental illness diagnoses, and medications. If the Officer of the Day does not have the information you are seeking, he or she can direct you to the specific Care Coordinator who will have the information.

#### **Public Defender - (714) 568-4115**

The Public Defender's office acts as the legal representative of the Conservatee, in most cases. They can provide advice and assistance within their legal role and responsibilities, especially regarding the protection of the Conservatee's rights and interests.

**There are several steps in the process before a determination is reached regarding conservatorship.**

A referral is sent to the office of County Counsel who files in Superior Court a "Petition for the Appointment of a Conservator".

- If it is determined that there is good cause for the need of temporary conservatorship, the judge will name the Public Guardian as one. The Public Guardian can be the only temporary one by law.
- A hearing on the full conservatorship is scheduled for a date approximately thirty days later.
- In preparation for the full conservatorship hearing, the Public Defenders office or private attorney, will represent the interests of the temporary Conservatee.
- Unless the potential conservatee has agreed to conservatorship, both sides will present evidence to support or argue against full conservatorship.
- Family and friends, mental health professionals and others who may provide relevant information may be required to testify.
- The decision granting or denying conservatorship will be made by a judge (or jury if the potential Conservatee requests a jury trial).
- If a relative or friend is to be named as the Private Conservator, he or she will be a substitute for the Public Guardian. If there is no one to be named, the Public Guardian's office can continue in that role.

**A Conservatee on a Public Conservatorship**

While on public conservatorship, each Conservatee is assigned one Conservator through the Public Guardian's office and one Care Coordinator with LPS Mental Health Services. The Conservator and Care Coordinator work closely together with the Conservatee to make sure that all needs are being addressed. While on Public Conservatorship, a Conservatee is required to live in a licensed facility. The types of facilities Conservatees reside in are determined by their mental health needs and medical needs.

- Depending on the terms of the Court's orders, the conservatee may lose the right to consent to surgery, to refuse medications and treatment, and/or to refuse lab tests.
- The Conservatee may not enter into contracts or drive a car.
- The Conservatee may not leave the state without a court order.
- The Conservatee must live in a licensed setting.
- The Conservatee will need permission from the conservator to go out on passes.

**What is a Public Conservator**

- The Public Conservator will act as the payee and manage the income, expenses and debts.
- The Public Conservator will approve the placement based upon the recommendation of the treating staff.
- The Public Conservator will coordinate all entitlements and benefit programs.
- The Public Conservator will be notified of any emergency or change in conservatee's status.

**What is a Conservatee on a Private Conservatorship**

Private Conservatees are often seen by Care Coordinators through an outpatient clinic.

- The Conservatee may live in a treatment facility or private residence. The court can determine the type of placement that is most appropriate. A Private Conservator can authorize placement.
- The Conservatee cannot leave a placement without authorization from the Private Conservator.
- The Conservatee must participate in the treatment as specified by the court or Private Conservator.
- Depending on the Court order, the Conservatee may lose the right to enter into contracts or drive a car and bearing arms.
- Depending on the terms of the Court's orders, the conservatee may lose the right to consent to surgery, to refuse medications and treatment, and/or to refuse lab tests.

### **What is a Private Conservator**

The court order will serve as a guide for the Private Conservator, describing the responsibilities that must be met and the rights of the Conservatee that must be observed. The Private Conservator consults with the mental health professionals involved with the Private Conservatee.

- The Private Conservator is responsible only for taking reasonable steps to authorize mental health treatment and other services needed by the Conservatee including his or her personal needs for food, clothing and shelter.
- The Private Conservator is not expected to guarantee a Conservatee's participation in recommended treatment and cannot be held liable for Conservatee's actions.
- The Private Conservator is not obligated to have the Conservatee live in his or her home. A Private Conservator can authorize placement for a Private Conservatee in either a licensed facility or private residence.
- If the Private Conservator is also an appointed conservator of the estate, then certain fiduciary responsibilities and reporting requirements are mandated.
- If there is a change in a court ordered placement or recommended treatment, or a move to a more restrictive placement, a written notice of the change must be submitted to the court.
- The Private Conservator must be aware of guidelines for medical treatment and seek court authorization for surgery and any medical treatment or procedure that is not specified in the conservatorship orders, if the Conservatee lacks capacity to make medical decisions.

If warranted, file a "Declaration in Support of Reappointment of Conservator" at least 45 days prior to the termination of the conservatorship.

The Private Conservator is responsible for taking reasonable steps to authorize mental health treatment and other services needed by the Conservatee. The Private Conservator is also expected to have sufficient contact with the Conservatee and treatment agencies to be able to make arrangements for obtaining help and supervision.

If at anytime a Private Conservator is no longer able to fulfill his or her responsibilities as Private Conservator, written notification to the Superior Court is required. A request to be removed as Private Conservator can be made by your attorney or by directly writing the Superior Court Mental Health Judge. The process is to describe your decision and ask the Court to direct the Public Guardian to reopen its investigation and schedule a court proceeding to appoint a new conservator. Note: Until the court takes action and you are formally removed as conservator, you are responsible to continue to act.

### **What does a Care Coordinator do?**

Care Coordinators work for the County of Orange, Health Care Agency, Behavioral Health Services. The LPS Mental Health Care Coordinators provide case management services for Public Conservatees. Their office is located within the Public Guardian's Office.

Private Conservatees receiving care from county mental health clinics, have Care Coordinators from one county outpatient clinics. There are some differences between LPS Mental Health and Adult Mental Health Clinics but basic case management services are similar for all Care Coordinators.

- The Care Coordinator will provide services that include case management, assessments, evaluations, therapy, linkage to community services, consultation and crisis intervention.
- The Care Coordinator will have at least monthly contact with each assigned Conservatee.
- The Care Coordinator will monitor medical and psychiatric care.
- The Care Coordinator will work with individual Conservators and provide updates of current clinical status.
- The Care Coordinator will assist social workers and discharge planners with placement during acute hospitalization. If terminated from conservatorship, the Care Coordinator will link the Conservatee to outpatient services.