

THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

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LPS (MENTAL HEALTH) CONSERVATORSHIP

If the adult you are trying to help is not gravely mentally ill, see the [Conservatorship](#) section of this website. If the adult you are trying to help is developmentally disabled, see the [Limited Conservatorship](#) section of this website.

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1. What is a mental health (LPS) conservatorship?

A mental health (LPS) conservatorship makes one adult (called the conservator) responsible for a mentally ill adult (called the conservatee). These conservatorships are only for adults with mental illnesses listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM).

The most common illnesses are serious, biological brain disorders, like: Schizophrenia, Bi-Polar Disorder (Manic Depression), Schizo-affective Disorder, Clinical Depression, and Obsessive Compulsive Disorder.

LPS conservatorships are not for people with organic brain disorders, brain trauma, retardation, alcohol or drug addiction, or dementia, unless they also have one of the serious brain disorders listed in the DSM.

LPS comes from the names of the California legislators who wrote the LPS Act in the 1970s: Lanterman, Petris, and Short.

2. What powers does an LPS conservator have?

An LPS conservatorship gives legal authority to one adult (called a conservator) to make certain decisions for a seriously mentally ill person (called a conservatee) who is unable to take care of him/ herself.

If asked, the Court can give LPS conservator the duty to take care of and protect the seriously mentally ill person (conservator of the person) and also the power to handle the financial matters of the seriously mentally ill person (conservator of the estate). The conservator can give consent to mental health treatment, even if the conservatee objects. S/he can legally agree to the use of psychotropic (mind-altering) drugs (but the conservatee may physically refuse to take them).

Also, the conservator can agree to place the mentally ill person in a locked facility if a psychiatrist says it is needed and the hospital agrees to take the person, whether or not the conservatee agrees. The conservator can also decide where the mentally ill person will live when s/he is not in a locked psychiatric facility.

An LPS conservator must have enough medical and social information before making decisions for the conservatee. And, the conservator must only take actions that are best for the mentally ill person. The LPS conservator can also make financial decisions for the seriously mentally ill person, like paying the bills and collecting a person's income.

3. Does an LPS conservatee always have to be in a locked facility?

No. But, LPS conservatorships often begin when the person's symptoms become so severe that they interfere with self-care and safety, and s/he is placed in a locked facility.

4. When can I establish an LPS conservatorship?

The Court will not let you establish an LPS conservatorship unless it finds beyond a reasonable doubt, that the mentally ill person, is gravely disabled. Gravely disabled means that, because of a mental disorder, the person cannot take care of his/her basic, personal needs for food, clothing, or shelter.

If you or another adult can provide for the person's basic needs, the Court cannot find the person to be gravely disabled. This means you may not need to establish a conservatorship.

5. How do I decide if the mentally ill person is gravely disabled?

You do not decide. You must take the mentally ill person to a psychiatrist authorized to do LPS evaluations. The psychiatrist must say the person is gravely disabled. And, s/he must make a referral to the [Office of the Public Guardian](#).

6. What if the mentally ill person refuses to go to a psychiatrist?

You can ask [Santa Clara County Mental Health](#) to help you with an involuntary evaluation. Call Santa Clara County Mental Health's Access Program, and ask for Information & Referral: 408- 279-3312. Their address is:
Access Program
2221 Enborg Ct.
San Jose, CA 95128

Or, you can drive the mentally ill person to Emergency Psychiatric Services (EPS) for an evaluation if it is safe and s/he is willing to go with you. Their office is at the Valley Medical Center. Their address is:
Emergency Psychiatric Services
820 Enborg Ct.
San Jose, CA 95128

There are other public service mental health facilities in different parts of Santa Clara County. You can find them in the Blue Pages of your phone book, under Government, County Government Offices, Mental Health. If there is an emergency situation, call EPS at: 408-885-6100.

7. Who is responsible for the mentally ill person during the petition process?

In Santa Clara County, the [Public Guardian's Office](#) acts as both the LPS investigator and the temporary conservator of the person and/or estate until the Court decides on your petition.

A PGO staff person will investigate and evaluate the referral to see if, based on the information provided, the mentally ill person is probably gravely disabled. If the LPS criteria seem to be met, the staff person will ask the Probate Judge to appoint the PGO as temporary conservator for 30 days.

During these 30 days, the PGO staff will keep investigating the disability of the mentally ill person. They will also protect and care for the mentally ill person and his/her finances. Before the 30 days end, the PGO will file a report with the Court.

The report will say:

If the mentally ill person is gravely disabled; and
If so, who would be the best person to become the conservator.

The PGO may recommend that:

A relative, friend, or private professional conservator be appointed, or
The PGO serve as conservator if no one else is available or appropriate, or
The Court not establish conservatorship because it is not needed.

8. What happens if the Court establishes an LPS conservatorship?

If the Court decides to establish an LPS conservatorship, the judge will give an order appointing a conservator. The conservator may be a relative, the PGO, or a private professional conservator. The attorney from County Counsel representing the PGO gives the Order to the court clerk along with the Letters of Conservatorship (GC-350) that is signed by the appointed conservator.

After the clerk files them, the LPS conservator has the authority to act. If you are the conservator, you can make copies or ask for certified copies of the Letters so you can prove what powers you legally have. The Letters always say you are

conservator of the person, but may or may not say that you are also conservator of the estate.

9. How long does an LPS conservatorship last?

An LPS conservatorship only lasts one year. About 90 days before it expires, the LPS clerk in the Probate Court Clerk's Office will mail you (the conservator) a notice of expiration. The notice will say the date the conservatorship ends.

The conservatee also gets a notice from the Court. If you need to, you can petition to renew the conservatorship. Otherwise, it will end. This means the conservatee is free to make his/her own decisions, and to refuse treatment.

10. How do I renew the conservatorship?

You must prepare a new petition for renewal (reappointment) at least 2-3 months before the current conservatorship expires. The Court will send you forms and instructions for filing a Petition for Reappointment of LPS Conservatorship when they send you your notice to re-establish conservatorship.

You must complete these forms. You will need two psychiatrists to help you. Get your forms to the psychiatrists as soon as possible so they will have enough time to fill them out.

11. What if the Court does not contact me?

You must contact the Court and ask for the forms you need. Call them at: (408) 882-2651 .

12. How do I find out when the hearing will be?

Before you bring your papers to Court to file, call the LPS Probate Clerk and ask for a hearing date. Call: (408) 882-2100, ext. 2651 .

When you bring your papers to Court, the LPS clerk will review them. If they are complete, the clerk will file them.

You must write the hearing date on the:

Notice of Hearing, and
Citation

13. How do I serve the forms?

When you file your forms with the LPS clerk, s/he will issue the Citation. Someone over 18 – not you – must personally serve (give) the conservatee a copy of the Citation. The person who serves must sign the Certificate of Service on the back of the Citation.

You must also serve a copy of the Notice of Hearing to the conservatee and any other person the Court tells you to serve. Then, complete the Proof of Service at the back of the Notice of Hearing.

After the conservatee is served, take the original Citation and signed Proof of Service to the LPS clerk.

14. Will the reappointment of conservatorship be different from the original appointment?

No. If the court renews your conservatorship, you and the conservatee have the same powers, rights and responsibilities as you did with the original conservatorship.

15. What if I am late in asking for the renewal (reappointment of conservatorship)?

It is your responsibility to keep track of the dates and to renew the conservatorship on time. If you don't, the conservatorship will expire exactly one year after the appointment.

But, if you are a just a few days or weeks late, the Court may establish the conservatorship retroactively to the expiration date. Still, there is no LPS conservatorship in effect until you have your Court hearing for renewal. It is illegal to force treatment on the former conservatee when the conservatorship is not in effect.

16. What if I can't establish an LPS conservatorship?

If a friend or relative is just acting strangely, you may be worried, but you may not

be able to take legal action. If a mentally ill person does not want to be treated, you cannot force treatment unless s/he is a danger to him/herself or others. Or, unless the person cannot take care of him/herself.

If your friend or relative is mentally ill and a danger to him/herself or to others, you can:

Try to convince him/her to go with you to an emergency psychiatric facility, or Call 911 or your local police department if there is an emergency. Most officers are trained to handle mental illness calls. Explain the problem when you call.

Sometimes, you can put him/her in a locked facility even if s/he doesn't want to be there. If you need more help or advice on how to handle or anticipate problems that may come up, call the mental health ACCESS line: 1-800-704-0900 .

17. What legal rights does a mentally ill person have when s/he is forced into a locked facility?

24-hour rule	A psychiatrist must examine the person within 24 hours.
72-hour hold	<p>State law says any person who is a danger to him/herself or to others because of a mental disorder or a grave disability can be placed in a psychiatric hospital for a 72-hour treatment and evaluation.</p> <p>The patient is taken to a County Mental Health facility or to another authorized emergency psychiatric hospital where a psychiatrist must evaluate his/her condition within 24 hours. If the psychiatrist says that the person is still a danger to him/herself or to others, the hospital can keep the person for another 72 hours.</p> <p>During this time, the patient does not yet have the right to talk to a lawyer. And, the hospital staff must approve visits. Only certain people, like law enforcement officers or crisis team members, can place a 72-hour hold. See Welfare and Institutions (W&I) Code Section 5150 .</p>
14 days intensive treatment	<p>Sometimes the professional staff at the 72-hour facility finds probable cause that the patient's mental disorder or grave disability causes him/her to be a danger to himself/herself or to others. If this happens, they tell the patient s/he needs treatment.</p> <p>If the patient refuses, the facility can keep him/her up to 14 more days for intensive treatment related to the mental disorder. (See W&I Code Section 5250 .)</p> <p>But, there must be a hearing before this can happen. The patient has the right to have a lawyer represent him/her. The facility must tell the patient about his/her rights to have a hearing.</p>
Commitments after 14 days	
3 more days to file for conservatorship	If the patient seems to need more involuntary treatment after the 14 days, and will need a conservatorship, the hospital can keep him/her for 3 more days while someone files for conservatorship. See W&I Code Section 5352.3 .
30 more days for involuntary treatment	Sometimes, after the end of the 14-day period, the hospital can keep the patient for 30 more days without filing for a temporary conservatorship. But, the hospital cannot keep the patient against his/her will for more than 47 days without a conservatorship. See W&I Code Section 5270.55 .
180 more days for involuntary treatment	<p>A hospital can keep a patient for 180 days after the 14 days, if s/he:</p> <p>hurt, tried to hurt, or threatened to hurt someone during the time s/he was locked up, and has a mental disorder that puts other people in physical danger.</p> <p>This can only be used in special cases. See W&I Code Section 5300 .</p>