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Self-Help Conservatorship Clinic
Volunteer Training-Clinic Skills

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The Why

Every so often, even angels
need to be rescued.



The Big Picture

Getting to the finish line: Certified Letters

Screening: What are the disabled person's needs

Intake: Gather the information we need to prepare documents

Petition preparation: LawHelp Program used to prepare court documents

Signing Appointment: Done at courthouse or in group setting in office

Service of Petition: Office serves by mail and Petitioner gets help to personally serve proposed conservatee

Hearing: Judge appoints conservator, denies petition, or makes any other appropriate ruling

Processing of Post Hearing Documents: Volunteers process Order, Duties, Letters, Determination of Appropriate Level of Care

Closing Letter: Volunteers send closing letter with instructions on how to obtain Certified Letters and serve Notice of Conservatee's Rights

The Basics

- **Clinic Locations:** Central (downtown), LA Law Library, Norwalk, Long Beach, Antelope Valley
- **Hearing Locations:** Stanley Mosk or Norwalk
- **Pink Folders:** Central and Pasadena areas
- **Green Folders:** Norwalk, Long Beach, Antelope Valley
- **Antelope Valley:** Hearings in Lancaster; Once a month all day petition workshops
- **We do not give legal advice!**

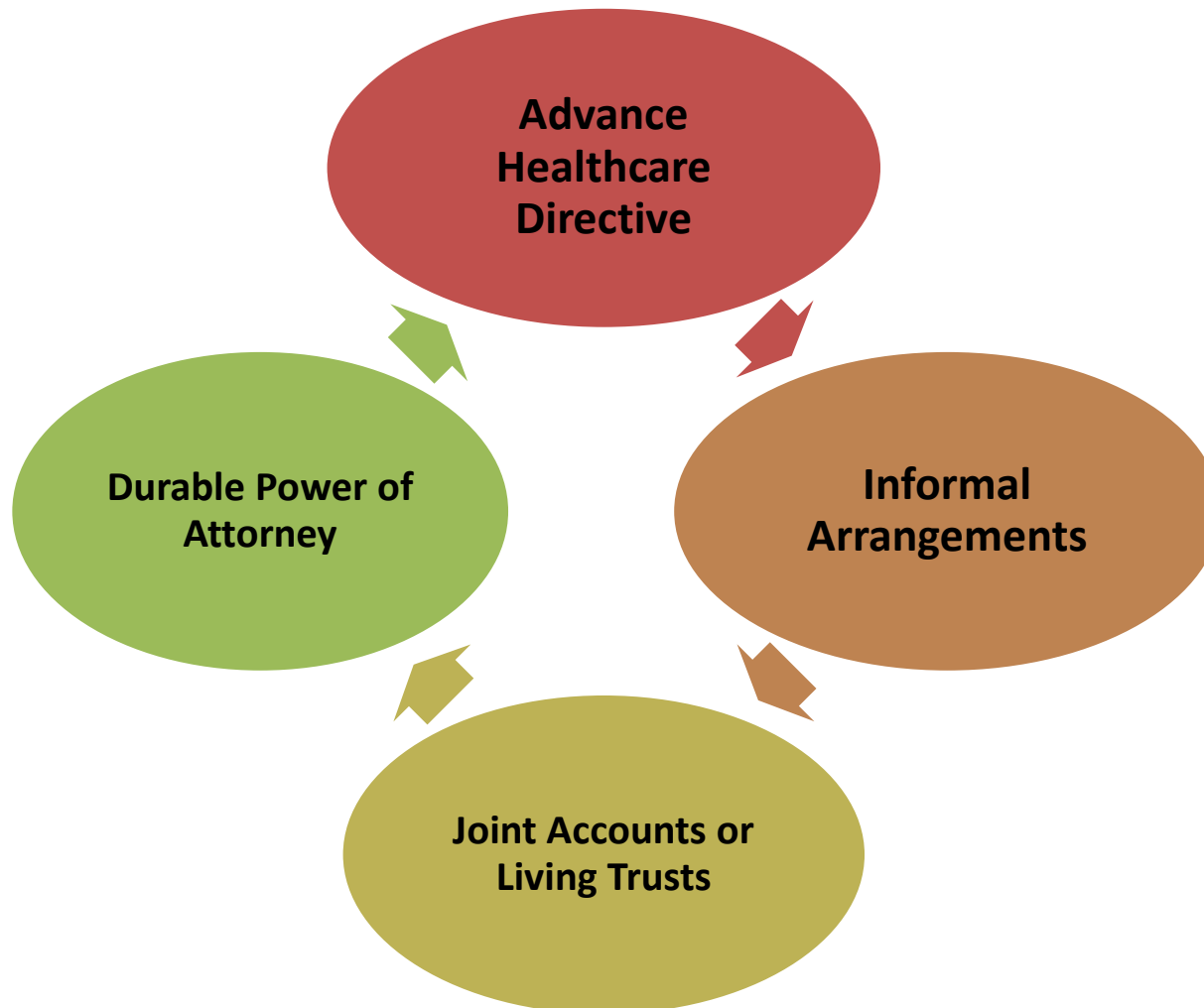


Overview of Conservatorships

What is a conservatorship?

A conservatorship is a court case where a judge appoints a responsible person or organization (called the “conservator”) to care for another adult (called the “conservatee”) who cannot care for himself or herself or manage his or her own finances.

What are alternatives to a conservatorship?





How does California law establish a conservatorship?

- **Probate Code (Sections 1801 et seq)** governs Probate Conservatorships
- **Welfare and Institutions Code (Sections 5000-5550)** governs LPS Conservatorships (Lanterman-Petris-Short Act Conservatorships)

Probate vs. LPS

Probate Conservatorship

- Purpose: To protect and care for the person and to administer the estate of those who, without assistance, cannot provide for their basic needs such as food, shelter, or clothing, or are unable to resist fraud or undue influence.

(Protects those with intellectual disabilities, autism, dementia, cerebral palsy, epilepsy, brain damage or dysfunction)

LPS Conservatorship

- Purpose: To provide for mental health care (may include involuntary detention in mental health treatment facilities) for those adjudicated as gravely disabled by reason of a mental disorder, and to protect and administer the estate. (Protects those with DSM IV diagnosis such as schizophrenia, OCD, Bi-polar disorder, clinical depression)

Probate vs. LPS

Probate Conservatorship

- Who is appointed?
May be private individuals, an agency, or the Public Guardian
- Duration?
Indefinite, but either the conservator or conservatee may petition the court for termination

LPS Conservatorship

- Who is appointed?
The Public Guardian, a relative or interested party, but the Public Guardian investigates all referrals and makes a recommendation to the court
- Duration?
Automatically terminates after one year but may be renewed

Probate Conservatorships

General Conservatorships

- For adults who cannot take care of themselves and/or their finances
- Often elderly people, but can also be younger people who have been seriously impaired (Example: injury from car accident)
- Need higher level of care

Limited Conservatorships

- For adults with developmental disabilities, i.e. those who have a severe or chronic disability due to a mental or physical impairment that started before the age of 18 and could last indefinitely
- Focus of the conservator is to help the limited conservatee develop maximum self-reliance and independence





Duties of Conservator of the Person

- Arrange for care and protection
- Decide where conservatee will live
- Make arrangements for meals, healthcare, clothing, personal care, housekeeping, transportation, shelter, well-being
- Get approval from the court for certain decisions about healthcare or living arrangements
- Report to the court on conservatee's current status

:



Duties of Conservator of the Estate

- Manage the conservatee's finances
- Locate and take control of all assets and prepare a budget
- Collect the conservatee's income
- Pay the conservatee's bills
- Responsibly invest the conservatee's money
- Protect the conservatee's assets
- Account to the court and conservatee for the management of the assets



Conservator of the Estate: Filing a Bond

The court will often require a conservator of the estate to post a bond. A bond is an insurance policy which assures that, if the conservator steals from the conservatee, there is a source from which the money can be obtained to return it to the conservatee. The bond company then institutes legal action against the conservator to recover the money paid out. No bond is required of the conservator of the person although the court in its discretion may require one.



Conservator of the Estate: When a bond is not necessary

Probate Code Section 2628(a): The court will not require a bond if it appears likely that the estate will meet the requirements of a small estate:

- Assets (items of ownership convertible into cash), not including the home, are valued at less than \$15,000
- Monthly income, not including any public benefit payments, does not exceed \$2000 per month
- All income of the estate, if not retained, will be used for the benefit of the conservatee



What is income?

- Alimony
- Settlement Funds
- Death Benefits
- Gifts, Inheritance of Property or Cash
- Interest, Dividends, Stocks, Bonds
- Pensions, Annuities, Railroad Retirement
- Unemployment compensation, Wages
- Veteran Administration Disability Compensation (Not Veteran Administration Pension payments)



What is an asset?

- Bank Deposits
- Collectibles (Art, Coins, Antiques, etc.)
- Inherited Property
- Cash
- Fixtures, Machinery
- Real Estate
- Boats, Vehicles
- Stocks, Bonds, Individual Retirement Accounts (IRAs)
- Certificates of Deposit



Probate Code Section 2351.5:

**The Seven
Powers a
Limited
Conservator
May Request
from the Court**

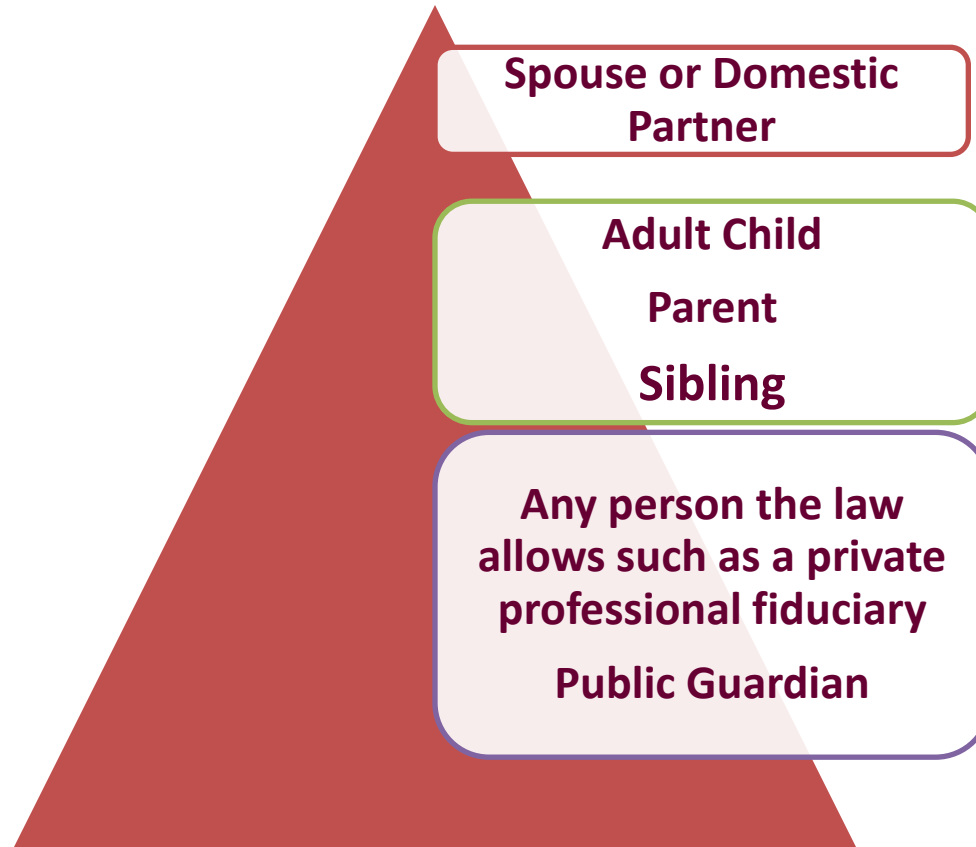
1. To fix the residence or specific dwelling of the limited conservatee
2. To have access to the confidential records and papers
3. To consent or withhold consent to the marriage or the entrance into a registered domestic partnership by the limited conservatee
4. To control the right of the limited conservatee to contract
5. To give or withhold consent to medical treatment
6. To control social and sexual contacts and relationships
7. To make decisions concerning the limited conservatee's education



The Role of the Regional Center in Limited Conservatorships

- Nonprofit corporations that have contracts with the California Department of Developmental Services to provide services for each person with a developmental disability at each stage of his or her life, regardless of age or the degree of the disability.
- Regional centers must serve people with developmental disabilities, women at high risk of giving birth to a child with a developmental disability, and infants at high risk of becoming developmentally disabled. Welf. & Inst. §§ 4512(a), 4642.
- The courts require a Regional Center report (Probate Code Section 1827.5(a)) for limited conservatorship petitions

Who can file for a conservatorship?



How does the conservatorship court process work?



Public Benefits

Fee
Waiver

Gross
Monthly
Income less
than
amounts
listed

Not enough
income to
pay for basic
needs and
court fees



Supplemental Security Income

- Federally financed needs based program
- Work history not required
- Guarantees minimum income level for 65 and older, blind, and disabled with low income and resources
- Anyone receiving SSI is eligible for Medi-Cal
- SSP supplements SSI Program



Medi-Cal

- California's Medicaid Program
- Provides health care coverage for low income families and aged, blind or disabled
- Based on financial need
- Adult beneficiary must be 65 years or disabled



Food Stamps

- CalFresh Program
- Monthly benefits that can be used to purchase food
- WIC Program is short term intervention for most vulnerable populations
- Income restrictions unless household contains elderly, disabled or all persons receive assistance



County Relief/General Assistance

- Provides relief and support for indigent adults who are not supported by their own means, other public funds, or assistance programs



IHSS- In Home Supportive Services

- Helps limited income individuals with disabilities and older adults remain safely in their homes
- Recipient may choose provider
- Spouse may be paid as provider

Cal WORKS/Tribal TANF

- Welfare program that gives cash aid and services to eligible needy families
- Helps with cash, housing, food, utilities, clothing, medical care for immediate short term
- TANF helps families of federally recognized Indian Tribes



CAPI-CASH ASSISTANCE PROGRAM

- Provides benefits for certain immigrants who previously would have received SSI but who are no longer eligible because of the restrictions based on non-citizen eligibility in the 1996 federal welfare legislation
- Beneficiaries are elderly, blind, or disabled immigrants



How does a probate conservatorship end?

- Conservatee becomes able to handle his or her own affairs
- Conservatee does not have any more assets (for conservatorship of the estate)
- Conservatee dies
- Court removes conservator
- Conservator dies
- Conservator resigns

How does a Petitioner go about filing for conservatorship?

- Probate Case Cover Sheet
- Request to Waive Court Fees
- Petition for Appointment of Probate Conservator
- Confidential Supplemental Information
- Confidential Conservator Screening Form
- Waiver and Consent to Act
- Order on Court Fee Waiver
- Order Appointing Court Investigator
- Notice of Hearing
- Notification to Court of Address on Conservatorship
- Citation of Conservatorship
- Order Appointing Probate Conservator
- **Letters of Conservatorship**
- Duties of Conservator
- Determination of Conservatee's Appropriate Level of Care
- Notice of Conservatee's Rights



**How will you assist the public in navigating the
petitioning process?**





Screening

- Are you here to file for conservatorship?
- Who are you trying to help?
- Does he/she live in Los Angeles County?
- What is the diagnosis/disability? What is the person's age?
- Does the person get Regional Center services?
- Do you need to help the person with finances?
- How much is in the estate that needs to be managed? (Give Petitioner an Estate Supplement if a small estate)
- Do you want someone to jointly make decisions with you about the care of this person? (Co-Conservator)

Intake

- Take completed questionnaire, Visitor Information Sheet from the visitor and determine if the disabled person qualifies for a fee waiver and the kind of conservatorship (Limited v. General, of the person, of the estate, both?)
- Prepare a Capacity Declaration
- Prepare a pink folder (green if Norwalk, Long Beach, or Antelope Valley) by entering the name of the Petitioner (Conservator) and the person he/she is trying to help (Conservatee)
- Pick an appropriate appointment date from the list of appointments and enter it on folder
- Explain the Disclosure and Disclaimer Agreement, have Petitioner sign it
- Go over answers provided in Questionnaire—MAKE SURE TO GET AS MUCH ACCURATE INFORMATION AS POSSIBLE AND MAKE CERTAIN INFORMATION IS LEGIBLE!
- If neither the Conservator or Conservatee have public benefits, have Petitioner fill out page 2 of Fee Waiver form
- Explain what should be done with Capacity Declaration
- Inform Petitioner about appointment, and explain to him/her what to expect during the process

Petition Preparation

- File goes back to office to be assigned a Bet Tzedek file number
- File will be placed in Coordinator's office for volunteer preparation in order of appointments, with the most recent appointment to be prepared first
- Volunteer will use LawHelp Interactive Program to prepare petition documents. **DON'T FORGET TO SAVE YOUR WORK!**
- Once petition documents are completed, file is placed in Coordinator's office in "For Review" basket.
- Assigned Volunteer or Coordinator will review the file, and return it to Volunteer if there are any corrections, revisions, etc.
- When review is complete, file will be placed in cabinet drawers in order of appointment date

Signing Appointment

- Appointment may be in courthouse or group setting in the office or a pro bono law firm
- Volunteer will go through each petition document, explain each pertinent section, and have Petitioner review and sign certain documents
- If the appointment is at the courthouse, the Petitioner will file the documents himself/herself. If the appointment is at the office in a group setting, the office volunteers will file the documents electronically.
- After the documents are signed, the volunteer will explain how to serve the Citation on the proposed Conservatee, and tell the Petitioner to ask the PVP Attorney to assist him/her in filling out the post hearing documents.
- Important: Remind the Petitioner to make sure to come back to the clinic after the hearing to turn in the post hearing documents after the hearing.

After the Hearing

- Petitioner will return to the clinic after the hearing
- Volunteer should ask Petitioner to give him/her the Order, Duties, Letters of Conservatorship, and Determination of Appropriate Level of Care.
- Do not let the Petitioner leave until you have checked for the following:
 - ✓ The PVP has filled out the Order and “Approved as to Form and Content
 - ✓ The Petitioner (and any Co-Conservators appointed) have dated and signed the Letters of Conservatorship
 - ✓ The Petitioner (and any Co-Conservators appointed) have dated and signed the Duties of Conservator
 - ✓ The Petitioner has completed the Determination of Appropriate Level of Care and dated and signed on the last page
 - ✓ The case number is entered on the documents

Getting to the finish line!

- Post hearing documents are matched to the file in clinic cabinets
- Copies of post hearing documents are prepared according to instructions in clinic instruction box
- File is placed on shelf in courthouse, awaiting processing in Filing Window
- Post hearing documents are submitted to Filing Window (Room 429) in Priority Orders Inbox
- Court Personnel process documents and scan them into Courtnet System (court database)
- Volunteers check database, and when Letters of Conservatorship scanned into system, prepare Request for Copies Form, print out conformed Order, print out Notice of Hearing.
- Volunteer retrieves file from clinic shelf, places documents in file, and gives to Coordinator to take back to office
- At office, Volunteers send out closing letter explaining how to pick up certified Letters of Conservatorship at courthouse and serve Notice of Conservatee's Rights
- File is closed



SEE YOU AT THE CLINIC!