

## MENTAL HEALTH CONSERVATORSHIPS LPS Guidelines

An LPS Conservatorship allows for involuntary mental health treatment and estate management. Mental health conservatorships are set forth in the Landerman-Petris-Short (LPS) Act of the Welfare and Institutions code, in which a person is deemed to be Gravely Disabled and unwilling or unable to voluntarily accept psychiatric treatment. An individual is considered to be Gravely Disabled when they are unable to provide food, clothing, or shelter for themselves due to a mental disorder. An individual who can survive with assistance of family or friends is not considered to be gravely disabled.

An LPS Conservatorship gives one adult (conservator) the responsibility for overseeing the comprehensive medical treatment for another adult (conservatee) who has a serious mental illness.

Do you need an LPS Conservatorship for a loved one who has mental illness? Read the information on pages 1 and 2 first, if time is of the essence.

Create and prepare these two forms and have them ready to give to the hospital as soon as your loved one is hospitalized. Give a copy of each form to the doctor, the public guardian and the hospital social worker. It is best to hand deliver these papers and have the doctor sign them to validate they have received this information.

*A. List the history of **all** the hospitalizations and/or incarcerations and homelessness which have taken place for your loved one:*

### **Form 1. Mental Health History**

- Date of hospitalization; Name of hospital; Address of hospital; Contact person at the hospital with phone number; Treating doctor's name; Diagnosis; Medications prescribed
- Example: Feb 23-30, 2013; Treat Me Well Hospital; 777 Need Help Street, Anywhere, CA; Dr. Rational Thinker (555-444-1234); Schizophrenia; 3 mg of Seroquel, 10 mg of Risperdal

Only list the information of which you are aware. You are not expected to have access to all of your loved one's medical history. If you are missing information, this is fine. Do the best you can. Do not list any other information on this page.

*B. Prepare a short detailed summary of the DSM IV symptoms of the mental illness as it applies to your loved one. Use the format below:*

### **Form 2. Symptoms and Characteristics**

#### **Visual hallucinations**

- Sees ghosts, dead people
- Sees people with pointed chins and beaked noses

**Auditory hallucinations**

- Laughs or smiles for no reason
- Hears television speaking to him/her (not the normal show)

**Delusions- includes grandiose delusions**

- Feels he/she is Christ
- Plans to open chain stores and make millions

**Belief in the delusions**

- Goes to the hospital to raise people from the dead
- Puts knives around bed to protect him/her from dead

**Disorganized speech**

- Rapid speech
- Does not make sense in conversation; can't follow conversation

**Disorganized behavior**

- Incapable of following directions
- Leaves stove on
- Parks car in middle of intersections
- Out of control spending sprees

**Poor Hygiene**

- Goes for days without showering
- Smells badly

**Paranoid thinking**

- People are running him/her off the road
- People are looking at him/her
- Mother/ Father molest him/her
- Government is watching him/her

**Behaves in accordance to his/her paranoid thinking**

- Throws food in garbage because it is poisoned
- Destroys cell phone, TV etc because FBI are listening
- Walks in front of traffic

**Unable to meet the needs of daily functioning**

- Goes into other people's houses uninvited to get food, use computer
- Does not pay for items in stores, just takes things
- Can't handle finances

**Difficulty understanding and following directions**

- Cannot process information
- Cannot follow multiple directions

**Inability to maintain gainful employment**

- Cannot keep a job
- Blames everyone for problems

**Inability to recognize their illness and difficulties associated with the illness**

- Refuses medication or will not stay on medication

**Gravely disabled**

- **May not** come and live at home, **Has no place to live**
- Has no income and cannot provide for self
- Has no insight into illness and therefore will not take medication and has history of non compliance
- Might not eat food because it is poisoned.

## Questions on Conservatorships

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**1. Why is an LPS Conservatorship important to obtain?**

An LPS Conservatorship is a tool which gives the conservator the power to work with the doctor to achieve treatment for the individual beyond the standard of “stable.” It helps the conservator to guide the treatment team to get your loved one’s life back as they knew it to be before they became ill.

**2. What is an LPS Conservatorship?**

An LPS Conservatorship is the legal term used in California which gives one adult (conservator) the responsibility for overseeing the comprehensive medical treatment for an adult (conservatee) who has a serious mental illness.

**3. How long is an LPS Conservatorship granted?**

An LPS Conservatorship is granted for one year term but can be renewed for another year. It is

important to pay attention to the requirement given for renewal from the court and mark it on your calendar.

**4. Who can be conserved?**

Conservatorships are only granted by the court for adults with a mental disorder which are listed in the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). These are granted for people with:

- Schizophrenia
- Bi-Polar disorder (Manic Depression)
- Schizoaffective disorder
- Clinical Depression
- Obsessive compulsive disorder

**5. What types of LPS Conservatorships do the courts grant?**

There are two types of LPS Conservatorship which the court can grant.

The first is an LPS Conservatorship of the Person. A qualified psychiatrist initiates a petition to the public guardian's office, which in turns petitions the court for the conservatorship.

The second is an LPS Conservatorship of the Estate. The public guardian directly petitions the court for this conservatorship. The doctor is not involved with this matter.

**6. What are the responsibilities of the conservator with respect to the conservatee?**

As a conservator you will be responsible for approving a place for the conservatee to live, and approving the treatment and the medication program for the conservatee. You should also participate in developing and overseeing a treatment plan that supports and encourages the conservatee to regain his/her life as close as it was prior to the illness. It is also a good idea to learn about mental disorders. NAMI offers a free Family to Family class.

**7. What are the responsibilities for the conservatee with respect to the estate?**

As conservator of the estate, you will be responsible but not personally liable for all financial matters pertaining to the estate. You don't need an estate conservatorship to be the representative payee for SSI benefits.

**8. What qualifies a person for an LPS Conservatorship?**

A person must be a harm to self, others and/or gravely disabled and he/she must also be seriously mentally disabled.

**9. How do I know if my loved one is considered a harm to himself or others?**

You do not need to wait until your loved one tries to commit suicide or tries to hurt someone or themselves before you seek treatment for them. If your loved one has delusional conversations expressing the need for knives or other items to protect him/her self; if they walk in front of moving cars, oblivious of the vehicles; if they seemed obsessed with others killing them; if they leave on gas burners when cooking; or are losing weight because they are afraid the food is contaminated, these are the red flags that will help you get your loved one hospitalized which is the first process in getting a conservatorship.

**10. What defines gravely disabled?**

Gravely disabled means the mentally ill person cannot take care of his/her basic needs for food, clothing and/or shelter. With that said, the state feels that if a person can get food or clothing

from a shelter, then they are not considered gravely disabled. The fact that a mentally ill person lives on the streets does not mean that they are gravely disabled either.

**11. How does a person get a gravely disabled status?**

When a person with mental illness is hospitalized or incarcerated for being a harm to self or others, then the family or others must stress to the doctor that the person does not have a place to live. You must stress that the ill person **may not** live with the family and that they have no apartment to which they can return. This is very important in requesting an LPS Conservatorship. This establishes “gravely disabled” for the purposes of the LPS Conservatorship, along with the fact that the person is not, nor has been compliant with medications.

To prove that a person cannot provide food or clothing is extremely difficult because if they can go to the Salvation Army or a dumpster to acquire clothes, panhandle for money, or find local food kitchens; then they are not considered gravely disabled. When a person is basically a vegetable living on the street, and someone provides food for them, they are not considered gravely disabled, even if they have lost substantial weight, and are too sick to know they are sick.

**12. Who can be the conservator?**

- Public guardian - paid for by the state
- Private conservator
- You or a relative - the state prefers a family member for conservator

**13. Why is it necessary to seek an LPS Conservatorship?**

If a person with mental illness does not have insight into their illness, and they are not compliant with their medications, it is a wise idea to seek an LPS Conservatorship to keep them safe, out of the revolving doors for the hospitals and out of jail. Because treatment and medication can be given under an LPS Conservatorship, it has been found that the brain will not have to continue to suffer further damage. An LPS Conservatorship is a significant tool which will help your loved one regain his/her life.

**14. How much does it cost to acquire an LPS Conservatorship?**

You can hire an attorney to help you acquire the conservatorship, but this is not always necessary. The attorney cannot force the doctor to seek conservatorship. Also an attorney is somewhat expensive, as the average legal fee is approximately \$10,000.00.

You can accept the public counsel which is free. From my experience, the public counsel deals with these situations every day. They are very knowledgeable and understand the proceedings of the conservatorship court. At the court, you will be assigned a public counsel if you are seeking to be the conservator. The public counsel will be your counsel and guide you through any processes you may encounter during the year.

**15. Where is the conservatorship court?**

In Ventura County, the court is held four days each week – not on Wednesdays.

It is convened in the morning at Vista del Mar Hospital, and in the afternoon at Hillmont Psychiatric Center. If necessary, jury trials are begun on Wednesdays at the Ventura Courthouse on Wednesdays.

**16. What is the usual process in seeking an LPS Conservatorship?**

- First, the person who exhibits harm to self or others is placed on a 72 hour hold, also known as a 5150 hold. This usually occurs by someone calling the police or the County Mental Health Crisis Team. The police can make sure the person is contained so as not to harm anyone, while

assessing the situation. The Crisis Team may be able to clinically evaluate the individual. If appropriate, either party can make an application for a 72 hour hold, and transport the person to a psychiatric hospital.

- In the hospital, the psychiatrist who evaluates the person may accept the person for a “5150” or 72 hour hold. If necessary they can later initiate a “5250” or a 14-day hold to continue the treatment for stabilization. A 14-day hold must have a Probable Cause hearing within four working days. The Probable Cause hearing is generally held in the hospital. Many times, families are not aware of this hearing until after it has taken place.
- To hold the person for an additional 30 days of observation, a writ hearing must be held at the court. The court may grant the 30 day hold (aka Temporary Conservatorship or “T-Con”), so the doctor can proceed with the LPS Conservatorship hearing.
- It is the psychiatrist who initiates the LPS Conservatorship request with the office of the Public Guardian.
- The public guardian will visit and evaluate the patient and make a recommendation to the court to either proceed or dismiss the LPS Conservatorship case.
- It is important to contact the public guardian and submit the two pages, suggested at the beginning, to them. Also, be sure to give a copy of these to the psychiatrist as soon as the person is taken to the hospital. If you don’t know which hospital the person will be in then you might give those papers to the police or Crisis Team to deliver to the hospital.
- An estate conservatorship is initiated through the public guardian’s office and not by the psychiatrist.

#### **17. What is a Riese hearing?**

This legal hearing is held at the hospital when the patient is becoming violent and needs medication, but is unwilling to voluntarily do so. It is a capacity hearing that is held to require the patient to take medication to calm him/her.

#### **18. Who can initiate a 5150 hold?**

Certain trained designated officials may initiate the 72 hour hold/section 5150 process.

- Police officer
- Approved mental health professional
- Approved psychiatrist

#### **19. How do I get hospitalization for my loved one?**

There are many ways to get hospitalization. Often, a person is willing to go to the hospital voluntarily because they know something is not right. If they are not willing to go and they are harmful to themselves or others, you should contact the police or Crisis Team and explain the situation. It is important to let the police know why you think the person is a possible harm to themselves or others. Just by being psychotic does not, by law, allow for a 5150 hold. |

If you have private insurance, then the police can transport your loved one to a hospital covered by the insurance. Otherwise they will be transported to the County hospital, Hillmont Psychiatric Center.

#### **20. Does my loved one need Medi-Cal or insurance to get hospitalization?**

No. But if you don’t have insurance, the psychiatrist will tend to stabilize and put your loved one back on the streets. You will have to **advocate strongly** to get them the LPS conservatorship.

**21. Does my loved one need SSI or Social Security to get hospitalized?**

No. I suggest that you go immediately to the social security office or online, and apply for SSI for your loved one. When they are hospitalized, this is the best time to apply. This establishes a disability start “date.” When SSI is granted, the payments will be retroactive to the date of initial application.

The social security office will give you forms to fill out and have your loved one sign. Also, a doctor will evaluate your loved one for approval for SSI. If they are later turned down for SSI, you need to appeal the decision within the 60 day time period.

When you are approved for SSI then Medi-Cal insurance is usually approved simultaneously. Sometimes you can get Medi-Cal without SSI. Therefore, also apply for Medi-Cal.

**22. All these officials, who are they and what are their roles?**

- Office of the County Counsel - represents Ventura County in all legal proceedings, including the Public Guardian in establishing conservatorship;
- Public Defender - represents person to be conserved and not the family
- Public Guardian - investigates LPS conservatorship referrals and makes recommendations to the court
- District attorney - represents the hospitals with involuntary treatment; also can be more involved in criminal matters
- Court - the judge ensures fairness and compliance with the laws in all proceedings involving involuntary treatment and conservatorships

**23. What powers and responsibilities are given when the conservatorship is granted?**

**Conservator Powers With Respect to the Conservatee**

- To place the conservatee in a private residence, psychiatric or non-psychiatric residential care facility, board and care, nursing or other State licensed facility whereas the conservatee has free access into or out of the premises
- To place the conservatee in a portion of a private acute care psychiatric hospital, State or County hospital operated by the Regents of the University of California or by the United States Government, whereas the conservatee has free access into or out of the hospital.
- To place the conservatee in a medical or psychiatric nursing facility or other State or County licensed facility, whereas the conservatee does not have free access into or out of the premises. Pending further order of the Court, this power shall terminate one year.
- To require the conservatee to have treatment related specifically to remedying or preventing the recurrence of his/her being gravely disabled.
- To require the conservatee to accept psychotropic medications.

**24. What is imposed on the Conservatee?**

- The privilege of possessing a license to operate a motor vehicle is suspended until the person is stable. The conservator can ask the psychiatrist to petition the court to allow the person to drive. It is up to the court to grant permission for driving and it is the DMV that evaluates and issues the license. Don't ask for this at the LPS hearing.
- The privilege of possessing, controlling or maintaining custody of a firearm or any other deadly weapon is temporarily taken away. This privilege can also be returned to the conservatee when they are stable.
- The right to refuse or consent to treatment related specifically to the conservatee's being gravely disabled. Another words, they must take the medications.

- The right to enter into any contract in which the consideration for performance is money or property is temporarily taken away. This power can also be given back by the court to the conservatee when they are stable.
- The right to vote. This too can be returned to the conservatee.

**25. Why should I keep a journal?**

It is important to keep a journal to document hospitalizations, medications, behaviors and symptoms and their side effects.

**Resources:**

- Welfare and Institute Codes 5150, 5250, 5332 available on the internet
- Ventura County Public Guardian: 805-654-3141
- Hillmont Psychiatric Center: 805-652-6729
- Vista Del Mar Hospital: 805-653-6434
- Ventura County Behavioral Health: 866-998-2243
- SSI and SS: 800-772-1213
- Medi-Cal: 877-597-4777
- Search the internet for LPS Conservatorships (not conservatorship)

**KEEP A SENSE OF HUMOR TO SURVIVE THIS ORDEAL**

An LPS Conservatorship is a powerful tool to help your loved one regain their life very closely as they knew it before the illness. That is, if you can get treatment early enough in this disease your loved one can and will live a “normal” life.

If you are the Conservator, the LPS gives you the power to work with the doctor to find the best medications for your loved one.

Good luck!

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