

Contra Costa County

Probate Conservatorship Referral Instructions

- I. Basis for Referral:
- A. The person must be unable to make decisions for themselves or provide for their own care.
 - B. The person must have no one else willing or able to be responsible for them.
 - C. The person must either be in or going to be placed in a supervised living arrangement.
 - D. The person must be a Contra Costa County resident.
- II. Who Makes Referral:
- A. Acute Hospital Discharge Planner, Social Worker, Doctor
 - B. Social Service Worker, Geriatric Services
 - C. Convalescent Hospital
 - D. Lawyers, Court Investigators
 - E. Any knowledgeable relative or friend
- III. What is Needed:
- A. Referral Forms:
 - 1. Completed Probate Referral Face Sheet Form A
 - 2. Completed Patient History and Information Form B
 - 3. Completed Relative Information Form C
 - B. Medical Form: Capacity Declaration-Conservatorship
 - 1. *Physician Declaration to Waive Court Appearance (5b)* – If the person is unable to appear in court. (Describe the physiological reasons why the patient is unable to appear in court, under 5b. Do not include confusion or mental instability as a reason. Describe the patient's physical condition.)
 - 2. *Physician Capacity Declaration (7)* – If the patient is unable to give informed medical consent. Complete Evaluation of Patient's Mental Function by placing an **X** in all appropriate boxes. In addition, please evaluate the patient for Dementia and complete #9 of the Capacity Declaration. If there is no Dementia, mark the box "doesn't have Dementia" and leave the rest of the last page blank.
 - C. Additional Information if Available:
 - 1. Please include a discharge summary from the acute care facility, and an admission summary, consultation, psychiatric, psychological, adult protective services report, etc.
- IV. Mail Completed Forms to:

Contra Costa County Conservatorship/Guardianship Program
P.O. Box 8
Martinez, CA 94553

Probate Referral Face Sheet – Form A

Referred By: _____
Agency/Phone: _____

Proposed

Conservatee:

Last Name First M.I. Birthplace Religion

Current

Address:

Hospital/Facility Name Address Phone # Admission Date

Previous

Address:

Street Address City/State Zip Phone Number

Sex: Male or Female Marital Status: Single SSN: _____ Birthdate: _____

Medicare #: _____ VA Claim #: _____ MediCal#: _____

Private Health Insurance: _____

Physician: _____

Name Address/City/State/Zip Phone #

Parent's Names:

Father _____ Mother _____ Maiden _____

List All Relatives, Friends, Neighbors and Interested Persons:

Name Relationship Address Phone Number

Medi-Cal Status: Receiving Medi-Cal? Yes or No SOC Amount: _____

Current Level of Functioning

Ambulatory? Yes or No Verbal? Yes or No Cooperative? Yes or No

Impaired/Memory? Yes or No Confused? Yes or No Continent? Yes or No

Impaired Judgment? Yes or No Total Care Patient? Yes or No N/G Tube? Yes or No

Living Situation Prior to Hospitalization: _____

Diagnosis & Prognosis: _____

Recommendation for Care: _____

Is there a Durable Power of Attorney for Health Care? Yes or No Agent's Name: _____

Assets

Real Property Address: _____

Name & Address of Bank: _____

Name of Mortuary: _____

Monthly Income:

Source Amount Where Check Deposited Payee on Check

**Patient History and Information
Form B**

Name: <i>(Last, First, M.I.)</i>		AKA:
DOB:		SSN:
Patient Health History for the Last Year		
Include where patient was living and with whom:		
Diagnoses/Medications:		
Ability to Ambulate:		
Cognitive Functioning:		
Continent:		
Memory Impairment:		
Diet and Food Intake:		
Behavior Problems:		
Mental Health Issues:		
Drug/Alcohol Abuse:		
Health Care Decision Maker:		
Other Issues in Caring for Self:		
Patient Financial History for Last Year: (Include sources and amounts of income)		
Bank Accounts:	Balance(s):	
Real Property		
Rep/Payee/POA for Finances		
Debts		
Other Financial Issues		
Patient Family/Friend Involvement:		

Patient Current Level of Functioning:	
Hospitalization date and cause:	
MD name and phone number:	
Diagnosis:	
Medications (or attach med sheet):	
Cognitive functioning:	
Memory impairments:	
Ability to ambulate:	
Continence issues:	
Diet and food intake:	
Activities of daily living:(Feeding, Bathing, Grooming, Dressing etc.)	
Behavioral problems:	
Judgement:	
Mental health issues:	
Level of care needed:	
Patient's ability to handle finances:	
Safety issues e.g. firearms, knives, communicable diseases, etc.:	
Need for Conservatorship:	

Relative Information Form Form C

Proposed Conservatee: _____

1. Please explain any contact you have had with the family.

2. Please explain why family is not able or willing to be responsible.

3. All family to the second degree must be notified of this Public Guardian referral. Write a letter to each family member advising them why you are making a referral to the Public Guardian. Attach a copy of your letter to each family member.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): SHARON L. ANDERSON (SBN 94814) COUNTY COUNSEL STEVEN P. RETTIG (SBN 178477) ASSISTANT COUNTY COUNSEL P.O. Box 69, Martinez, CA 94553 TELEPHONE NO.: (925) 646-1830 FAX NO. (Optional): E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name):	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF CONTRA COSTA STREET ADDRESS: 725 Court Street MAILING ADDRESS: P.O. Box 911 CITY AND ZIP CODE: Martinez, CA 94553 BRANCH NAME:	
CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	
CAPACITY DECLARATION—CONSERVATORSHIP	CASE NUMBER
<p style="text-align: center;">TO PHYSICIAN, PSYCHOLOGIST, OR RELIGIOUS HEALING PRACTITIONER</p> <p>The purpose of this form is to enable the court to determine whether the (proposed) conservatee (check all that apply):</p> <p>A. <input type="checkbox"/> is able to attend a court hearing to determine whether a conservator should be appointed to care for him or her. The court hearing is set for (date): <input type="text"/>. (Complete item 5, sign, and file page 1 of this form.)</p> <p>B. <input type="checkbox"/> has the capacity to give informed consent to medical treatment. (Complete items 6 through 8, sign page 3, and file pages 1 through 3 of this form.)</p> <p>C. <input type="checkbox"/> has dementia and, if so, (1) whether he or she needs to be placed in a secured-perimeter residential care facility for the elderly, and (2) whether he or she needs or would benefit from dementia medications. (Complete items 6 and 8 of this form and form GC-335A; sign and attach form GC-335A. File pages 1 through 3 of this form and form GC-335A.)</p> <p>(If more than one item is checked above, sign the last applicable page of this form or form GC335A if item C is checked. File page 1 through the last applicable page of this form; also file form GC-335A if item C is checked.)</p> <p>COMPLETE ITEMS 1–4 OF THIS FORM IN ALL CASES.</p>	

GENERAL INFORMATION

1. (Name):
2. (Office address and telephone number):
3. I am
 - a. a California licensed physician psychologist acting within the scope of my licensure with at least two years' experience in diagnosing dementia.
 - b. an accredited practitioner of a religion whose tenets and practices call for reliance on prayer alone for healing, which religion is adhered to by the (proposed) conservatee. The (proposed) conservatee is under my treatment. (Religious practitioner may make the determination under item 5 ONLY.)
4. (Proposed) conservatee (name):
 - a. I last saw the (proposed) conservatee on (date):
 - b. The (proposed) conservatee is is NOT a patient under my continuing treatment.

ABILITY TO ATTEND COURT HEARING

5. A court hearing on the petition for appointment of a conservator is set for the date indicated in item A above. (Complete a or b.)
 - a. The proposed conservatee is able to attend the court hearing.
 - b. Because of medical inability, the proposed conservatee is NOT able to attend the court hearing (check all items below that apply)
 - (1) on the date set (see date in box in item A above).
 - (2) for the foreseeable future.
 - (3) until (date):
 - (4) **Supporting facts** (State facts in the space below or check this box and state the facts in Attachment 5):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

 (TYPE OR PRINT NAME) ▶ _____
 (SIGNATURE OF DECLARANT)

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	CASE NUMBER:
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6. EVALUATION OF (PROPOSED) CONSERVATEE'S MENTAL FUNCTIONS

Note to practitioner: This form is *not* a rating scale. It is intended to assist you in recording your *impressions* of the (proposed) conservatee's mental abilities. Where appropriate, you may refer to scores on standardized rating instruments.
(Instructions for items 6A-6C): Check the appropriate designation as follows: a = no apparent impairment; b = moderate impairment; c = major impairment; d = so impaired as to be incapable of being assessed; e = I have no opinion.)

A. Alertness and attention

(1) Levels of arousal (lethargic, responds only to vigorous and persistent stimulation, stupor)

a b c d e

(2) Orientation (types of orientation impaired)

a b c d e Person

a b c d e Time (day, date, month, season, year)

a b c d e Place (address, town, state)

a b c d e Situation ("Why am I here?")

(3) Ability to attend and concentrate (give detailed answers from memory, mental ability required to thread a needle)

a b c d e

B. Information processing. Ability to:

(1) Remember (ability to remember a question before answering; to recall names, relatives, past presidents, and events of the past 24 hours)

i. Short-term memory a b c d e

ii. Long-term memory a b c d e

iii. Immediate recall a b c d e

(2) Understand and communicate either verbally or otherwise (deficits reflected by inability to comprehend questions, follow instructions, use words correctly, or name objects; use of nonsense words)

a b c d e

(3) Recognize familiar objects and persons (deficits reflected by inability to recognize familiar faces, objects, etc.)

a b c d e

(4) Understand and appreciate quantities (deficits reflected by inability to perform simple calculations)

a b c d e

(5) Reason using abstract concepts. (deficits reflected by inability to grasp abstract aspects of his or her situation or to interpret idiomatic expressions or proverbs)

a b c d e

(6) Plan, organize, and carry out actions (assuming physical ability) in one's own rational self-interest (deficits reflected by inability to break complex tasks down into simple steps and carry them out)

a b c d e

(7) Reason logically.

a b c d e

C. Thought disorders

(1) Severely disorganized thinking (rambling thoughts; nonsensical, incoherent, or nonlinear thinking)

a b c d e

(2) Hallucinations (auditory, visual, olfactory)

a b c d e

(3) Delusions (demonstrably false belief maintained without or against reason or evidence)

a b c d e

(4) Uncontrollable or intrusive thoughts (unwanted compulsive thoughts, compulsive behavior).

a b c d e

(Continued on next page)

CONSERVATORSHIP OF THE <input type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name): <div style="text-align: center; padding-top: 10px;"> <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE </div>	CASE NUMBER:
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6. (continued)

D. Ability to modulate mood and affect. The (proposed) conservatee has does NOT have a pervasive and persistent or recurrent emotional state that appears inappropriate in degree to his or her circumstances. (If so, complete remainder of item 6D.) I have no opinion.

(Instructions for item 6D: Check the degree of impairment of each inappropriate mood state (if any) as follows: a = mildly inappropriate; b = moderately inappropriate; c = severely inappropriate.)

Anger	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Euphoria	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Helplessness	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>
Anxiety	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Depression	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Apathy	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>
Fear	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Hopelessness	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Indifference	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>
Panic	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>	Despair	a <input type="checkbox"/>	b <input type="checkbox"/>	c <input type="checkbox"/>				

E. The (proposed) conservatee's periods of impairment from the deficits indicated in items 6A-6D

- (1) do NOT vary substantially in frequency, severity, or duration.
- (2) do vary substantially in frequency, severity, or duration (explain; continue on Attachment 6E if necessary):

F. (Optional) Other information regarding my evaluation of the (proposed) conservatee's mental function (e.g., diagnosis, symptomatology, and other impressions) is stated below stated in Attachment 6F.

ABILITY TO CONSENT TO MEDICAL TREATMENT

7. Based on the information above, it is my opinion that the (proposed) conservatee

- a. has the capacity to give informed consent to any form of medical treatment. The opinion is limited to medical consent capacity.
- b. lacks the capacity to give informed consent to any form of medical treatment because he or she is *either* (1) unable to respond knowingly and intelligently regarding medical treatment *or* (2) unable to participate in a treatment decision by means of a rational thought process, *or both*. The deficits in the mental functions described in item 6 above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of medical decisions. This opinion is limited to medical consent capacity.

(Declarant must initial here if item 7b applies: _____.)

8. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____ (TYPE OR PRINT NAME)		_____ (SIGNATURE OF DECLARANT)
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CONSERVATORSHIP OF THE <input checked="" type="checkbox"/> PERSON <input type="checkbox"/> ESTATE OF (Name):	CASE NUMBER:
<input type="checkbox"/> CONSERVATEE <input type="checkbox"/> PROPOSED CONSERVATEE	

**ATTACHMENT TO FORM GC-335, CAPACITY DECLARATION—CONSERVATORSHIP,
ONLY FOR (PROPOSED) CONSERVATEE WITH DEMENTIA**

9. It is my opinion that the (proposed) conservatee HAS does NOT have dementia as defined in the current edition of *Diagnostic and Statistical Manual of Mental Disorders*.
- a. Placement of (proposed) conservatee. (If the (proposed) conservatee requires placement in a secured-perimeter residential care facility for the elderly, please complete items 9a(1)–9a(5).)
- (1) The (proposed) conservatee needs or would benefit from placement in a restricted and secure facility because (state reasons; continue on Attachment 9a(1) if necessary):
 - (2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9a(2) if necessary):
 - (3) The (proposed) conservatee HAS capacity to give informed consent to this placement.
 - (4) The (proposed) conservatee does NOT have capacity to give informed consent to this placement. The deficits in mental function assessed in item 6 of form GC-335 and described in item 9a(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate the consequences of his or her actions with regard to giving informed consent to placement in a restricted and secure environment.
 - (5) A locked or secured-perimeter facility is is NOT the least restrictive environment appropriate to the needs of the (proposed) conservatee.
- b. Administration of dementia medications. (If the (proposed) conservatee requires administration of psychotropic medications appropriate to the care of dementia, please complete items 9b(1)–9b(5).)
- (1) The (proposed) conservatee needs or would benefit from the following psychotropic medications appropriate to the care of dementia, for the reasons stated in item 9b(5) (list medications; continue on Attachment 9b(1) if necessary):
 - (2) The (proposed) conservatee's mental function deficits, based on my assessment in item 6 of form GC-335, include (describe; continue on Attachment 9b(2) if necessary):
 - (3) The (proposed) conservatee HAS capacity to give informed consent to the administration of psychotropic medications appropriate to the care of dementia.
 - (4) The (proposed) conservatee does NOT have the capacity to give informed consent to the administration of psychotropic medications appropriate to the care of dementia. The deficits in mental function assessed in item 6 of form GC-335 and described in item 9b(2) above significantly impair the (proposed) conservatee's ability to understand and appreciate his or her actions with regard to giving informed consent to the administration of psychotropic medications for the treatment of dementia.
 - (5) The (proposed) conservatee needs or would benefit from the administration of the psychotropic medications listed in item 9b(1) because (state reasons; continue on Attachment 9b(5) if necessary):

10. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

Page 1 of 1

The Making of a Conservatorship

What is a Conservator?

A legal decision maker.

A stand-in for the client.

An advocate.

Two kinds of Conservatorships: LPS and Probate

LPS:

The Lanterman-Petris-Short Act of 1967:

5000. This part shall be known and may be cited as the Lanterman-Petris-Short Act.

5001. The provisions of this part and Part 1.5 (commencing with Section 5585) shall be construed to promote the legislative intent as follows:

(a) To end the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities.

(b) To provide prompt evaluation and treatment of persons with mental health disorders or impaired by chronic alcoholism.

(c) To guarantee and protect public safety.

(d) To safeguard individual rights through judicial review.

(e) To provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled.

(f) To encourage the full use of all existing agencies, professional personnel, and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures.

(g) To protect persons with mental health disorders and developmental disabilities from criminal acts.

(h) To provide consistent standards for protection of the personal rights of persons receiving services under this part and under Part 1.5 (commencing with Section 5585).

(i) To provide services in the least restrictive setting appropriate to the needs of each person receiving services under this part and under Part 1.5 (commencing with Section 5585).

Who can make a referral for LPS?

Qualifying professional from an acute psychiatric facility approved by the Board of Supervisors to do 5150 evaluations.

How does a person qualify for an LPS Conservatorship?

Gravely disabled due to a mental disorder. The mental disorder must qualify for payment with mental health dollars for a sub-acute facility. Resident of the County.

What and who substantiates grave disability?

Inability to provide food, clothing or shelter as a result of mental disorder. Exhibit A completed by a Psychiatrist in a qualifying facility. The T-Con referral.

How is the referral made?

Referrals must be timely.

5150,5250,5260,5270

5270.10. It is the intent of the Legislature to reduce the number of gravely disabled persons for whom conservatorship petitions are filed and who are placed under the extensive powers and authority of a temporary conservator simply to obtain an additional period of treatment without the belief that a conservator is actually needed and without the intention of proceeding to trial on the conservatorship petition. This change will substantially reduce the number of conservatorship petitions filed and temporary conservatorships granted under this part which do not result in either a trial or a conservatorship.

5270.55. (a) Whenever it is contemplated that a gravely disabled person may need to be detained beyond the end of the 14-day period of intensive treatment and prior to proceeding with an additional 30-day certification, the professional person in charge of the facility shall cause an evaluation to be made, based on the patient's current condition and past history, as to whether it appears that the person, even after up to 30 days of additional treatment, is likely to qualify for appointment of a conservator. If the appointment of a conservator appears likely, the conservatorship referral shall be made during the 14-day period of intensive

treatment.

(b) If it appears that with up to 30 days additional treatment a person is likely to reconstitute sufficiently to obviate the need for appointment of a conservator, then the person may be certified for the additional 30 days.

(c) Where no conservatorship referral has been made during the 14-day period and where during the 30-day certification it appears that the person is likely to require the appointment of a conservator, then the conservatorship referral shall be made to allow sufficient time for conservatorship investigation and other related procedures. If a temporary conservatorship is obtained, it shall run concurrently with and not consecutively to the 30-day certification period. The conservatorship hearing shall be held by the 30th day of the certification period. The maximum involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250 and 5270.15 shall be limited to 47 days. Nothing in this section shall prevent a person from exercising his or her right to a hearing as stated in Sections 5275 and 5353.

47 day rule

5352.3. If the professional person in charge of the facility providing intensive treatment recommends conservatorship pursuant to Section 5352, the proposed conservatee may be held in that facility for a period not to exceed three days beyond the designated period for intensive treatment if the additional time period is necessary for a filing of the petition for temporary conservatorship and the establishment of the temporary conservatorship by the court. The involuntary detention period for gravely disabled persons pursuant to Sections 5150, 5250, and 5170.15 shall not exceed 47 days unless continuance is granted.

5352, T-Con

5352. When the professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment determines that a person in his care is gravely disabled as a result of mental disorder or impairment by chronic alcoholism and is unwilling to accept, or incapable of accepting, treatment voluntarily, he may recommend conservatorship to the officer providing conservatorship investigation of the county of residence of the person prior to his admission as a patient in such facility.

The professional person in charge of an agency providing comprehensive evaluation or a facility providing intensive treatment may recommend conservatorship for a person without the person being an inpatient in such facility, if both of the following conditions are met: (a) the professional person or another professional person designated by him has examined and evaluated the person and determined that he is gravely disabled; (b) the professional person or another professional person designated by him has determined that future examination on an inpatient basis is not necessary for a

determination that the person is gravely disabled.

If the officer providing conservatorship investigation* concurs with the recommendation, he shall petition the superior court in the county of residence of the patient to establish conservatorship.

Where temporary conservatorship is indicated, the fact shall be alternatively pleaded in the petition. The officer providing conservatorship investigation or other county officer or employee designated by the county shall act as the temporary conservator.

*The Deputy Conservator

Referrals Made by the Court:

5352.5. Conservatorship proceedings may be initiated for any person committed to a state hospital or local mental health facility or placed on outpatient treatment pursuant to Section 1026 or 1370 of the Penal Code or transferred pursuant to Section 4011.6 of the Penal Code upon recommendation of the medical director of the state hospital, or a designee, or professional person in charge of the local mental health facility, or a designee, or the local mental health director, or a designee, to the conservatorship investigator of the county of residence of the person prior to his or her admission to the hospital or facility or of the county in which the hospital or facility is located. The initiation of conservatorship proceedings or the existence of a conservatorship shall not affect any pending criminal proceedings.

Penal Code 1370 c) (2)

(2) Whenever a defendant is returned to the court pursuant to paragraph (1) or (4) of subdivision (b) or paragraph (1) of this subdivision and it appears to the court that the defendant is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008 of the Welfare and Institutions Code, the court shall order the conservatorship investigator of the county of commitment of the defendant to initiate conservatorship proceedings* for the defendant pursuant to Chapter 3 (commencing with Section 5350) of Part 1 of Division 5 of the Welfare and Institutions Code. Hearings required in the conservatorship proceedings shall be held in the superior court in the county that ordered the commitment. The court shall transmit a copy of the order directing initiation of conservatorship proceedings to the community program director or a designee, the sheriff and the district attorney of the county in which criminal charges are pending, and the defendant's counsel of record. The court shall notify the community program director or a designee, the sheriff and district attorney of the county in which criminal charges are pending, and the defendant's counsel of record of the outcome of the conservatorship proceedings.

Penal Code 1370.01 c) (2) nearly identical for misdemeanants

*The Court can order an investigation but cannot order us to file.

Murphy Conservatorships:

Definition: W&I Code 5008 h (1) B

(h) (1) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means either of the following:

(A) A condition in which a person, as a result of a mental health disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

(B) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the person at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of a mental health disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

Placement of Murphy's:

(2) For a conservatee who is gravely disabled, as defined in subparagraph (B) of paragraph (1) of subdivision (h) of Section 5008, first priority shall be placement in a facility that achieves the purposes of treatment of the conservatee and protection of the public.* The court shall determine the most appropriate placement for the conservatee. The court shall also determine those persons to be notified of a change of placement, and additionally require the conservator to notify the district attorney or attorney representing the originating county prior to any change of placement.

*The distinction of a Murphy Conservatorship

How long does it last?

A T-Con can last up to 6 months, and cannot be renewed past the six months. If a full Conservatorship is not initiated the Conservatorship ends as a matter of law.

A full Conservatorship is for a year, but may be renewed for a consecutive year. If not renewed it lapses.

An important part of renewal is submitting 2 Physician Declarations.

What is the purpose or goal of Conservatorship?

5350.1. The purpose of conservatorship, as provided for in this article, is to provide individualized treatment, supervision, and placement.

What authorities does the Conservator have?

Admitting to a Psychiatric Facility for evaluation and or treatment.

W&I 5358.5

5358.5. When any conservatee placed into a facility pursuant to this chapter leaves the facility without the approval of the conservator or the person in charge of the facility, or when the conservator appointed pursuant to this chapter deems it necessary to remove his conservatee to the county designated treatment facility, the conservator may take the conservatee into custody and return him to the facility or remove him to the county designated treatment facility. A conservator, at his discretion, may request a peace officer to detain the conservatee and return such person to the facility in which he was placed or to transfer such person to the county designated treatment facility, pursuant to Section 7325 of the Welfare and Institutions Code. Such request shall be in writing and accompanied by a certified copy of the letters of conservatorship showing the person requesting detention and transfer to be the conservator appointed pursuant to this chapter as conservator of the person sought to be detained. Either the conservator or his assistant or deputy may request detention under this section. Whenever possible, persons charged with apprehension of persons pursuant to this section shall dress in plain clothes and shall travel in unmarked vehicles.

(See Police Assist Form)

Although placements are decided in Court at the time of the initiation of the Conservatorship, they are decided based on the recommendations of the Conservator. Once the court makes the initial determination the Conservator has some latitude to move the conservatee to a more restrictive level with notice. The Conservator has complete latitude to move the conservatee to a less restrictive placement as long as the conservatee is not on a Murphy Conservatorship.

Consenting to Psychiatric Medication and Treatment.

Although the Conservator should sign all med and treatment consents, psychiatrists and treatment providers should inform the Conservator about changes in meds and treatment when no consent is required. (Remember that the Conservator is a stand in for the client and so should be included in all treatment decisions, just like you would include the client.)

Sometimes consenting to routine medical. Flu shots, etc.

Consenting to release of records, to the Conservator, and to any others.

What rights does the Conservatee retain?

All except the authorities given to the Conservator and firearms.

Sometimes they lose driving privileges or ability to get into contracts.

Rarely do they lose the ability to vote.

What is their legal due process?

LPS Conserved clients are appointed a Public Defender. They are allowed one writ per T-Con, and one Jury Trial per year of full Conservatorship and two re-hearings.

Third Party Assist

The Conservator* must evaluate the viability of all Third Party Assists and get written notification from the friend or family member as to their willingness and ability to provide this.

*Not the hospital psychiatrist, social worker, or case manager.

Probate:

How does a person qualify?

Lack of Capacity due to cognitive impairment.

What substantiates lack of capacity?

A capacity declaration.

How is the referral made?

Who can make a referral from Probate?

Anyone who knows and is concerned about the individual.

What are the checks and balances involved in a Probate Conservatorship?

The Deputy Conservator conducting the investigation.

The Court Investigator. They do their own independent investigation of the case and make their own recommendation to the court. They remain involved after the Conservatorship is put into place.

The proposed Conservatee's attorney.

The Court.

The Conservator of last resort and what goes into an Investigation?

Are there willing and able family members who can do the job?

How long does a Probate Conservatorship last?

Until the Conservatee dies.

What authorities does the Conservator have?

Placement, all medical decisions, financial decisions, etc. No locked psychiatric units, this requires an LPS Conservatorship or approval by the court.

Dementia Powers are awarded separately to allow the Conservator to authorize a secure perimeter facility and/or psychotropic medications specific to people with Dementia. (Probate Code 2356.5)

What rights does the Conservatee retain?

The right to know the nature , purpose and effect of the proceedings; the right to oppose the proceedings; the right to attend the hearing ; the right to have the matter tried by a jury; the right to be represented by legal counsel; the right to object to the Dementia Powers.

General Questions about Conservatorships?

Do we file on every case we get a referral on? What are some of the reasons why we don't file?

Least restrictive environment.

What is a Conservatorship of an Estate?