

If you have difficulty in contacting your attorney after being advised of his/her name and telephone number or have further questions regarding Conservatorship of your rights in the mental health system, please call:

PATIENTS' RIGHTS OFFICE

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SE HABLA ESPAÑOL



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This information is available in alternative formats upon request. Please contact the Office of Patients' Rights at (951) 358-4600 or (800) 350-0519.

**PATIENTS' RIGHTS
ADVOCACY
PROGRAM**

**CONSERVATORSHIP
AND YOU**

The mental health laws of the State of California provide that an individual who is determined to be unable to provide for basic personal needs for food, clothing or shelter due to a mental disability may be placed on a mental health Conservatorship.

This pamphlet is designed to explain the Conservatorship procedure to you as well as outline your rights as a Conservatee.



1. What is a mental health Conservatorship?

A Conservatorship is a protective relationship in which a person is appointed by the Court to serve as Conservator. This person acts in the best interest of a "gravely disabled" individual to ensure that basic needs for food, clothing and shelter are met and, if required, that the individual is receiving adequate medical care and treatment.

2. What is the meaning of the term "gravely disabled"?

An adult is "gravely disabled" if, due to a mental disorder, he/she is unable to provide for basic personal needs for food, clothing or shelter.

A minor is considered to be gravely disabled if, due to a mental disorder, he/she is unable to use the elements of life, which are considered to be essential for health, safety and development, even if provided by others. These elements include food, clothing and shelter.

3. Why am I being recommended for Conservatorship?

It has been determined by the physician responsible for your care that you are gravely disabled and unwilling or unable to accept treatment on a voluntary basis. For this reason, Conservatorship has been recommended to the Conservatorship Investigation Office in Mental Health. If this office concurs with the recommendation, a petition will be filed with the Superior Court to establish a Temporary Conservatorship.

4. What is a Temporary Conservatorship?

If the Conservatorship Investigation Officer petitions, the Court may establish a Temporary Conservatorship for a period not to exceed 30

days based on the report filed by the Conservatorship Investigation Officer or on an affidavit filed by your physician. If the Court is satisfied that the necessity for a Temporary Conservatorship has been shown, you will be placed on a Temporary Conservatorship.

5. Must I appear in Court to be placed on Temporary Conservatorship?

No. Neither you nor your representative appear in Court prior to the establishment of a Temporary Conservatorship.

6. Who acts as my Temporary Conservator?

The Conservatorship Investigation Officer will act as the Temporary Conservator.

7. What are the duties of the Temporary Conservator?

The Temporary Conservator is responsible for ensuring that arrangements are made to provide you with food, clothing and shelter during the period you are under Temporary Conservatorship. You may be placed in a mental health facility, although consideration will be given to arrangements, which will allow you to return to your home, family or friends.

8. Must I take medications against my wishes?

In Riverside County, you keep your right to consent voluntarily to medications to treat your mental condition. The physician responsible for your care may ask the Court to review your capacity to consent. This is called a "Riese Hearing" and a Patients' Rights Advocate will represent you or you might retain an attorney.

9. Can I be hospitalized against my wishes?

Yes. The Temporary Conservator may require you to be placed in a psychiatric hospital against your will. Should this occur, you will, as a Temporary Conservatee, have the right to request release by writ of habeas corpus.

10. What is a writ of habeas corpus?

A petition for a writ of habeas corpus is a legal request for release from the facility in which you are detained. A petition for a writ of habeas corpus will allow you to have a hearing and be represented by an attorney in Superior Court.

11. How do I file a writ of habeas corpus?

The facility in which you are detained will provide you with a request for release form and will assist you in filling it out. At this time, you will be given the opportunity to indicate whether you would like to retain your own attorney or have an attorney appointed by the Court. Once this form has been signed, it will be forwarded to the Superior Court and a hearing will be scheduled to determine if you should be released.

12. What happens by the 30th day of my Temporary Conservatorship?

One of three things may happen:

- a) You may be released from the mental health system;
- b) You can agree to mental health treatment voluntarily; or
- c) You may be recommended for Permanent Conservatorship by your Temporary Conservator.

13. What is a Permanent Conservatorship?

During the 30-day period of Temporary Conservatorship, the Public Conservator is required to prepare a comprehensive written report to the Superior Court as to why he/she believes you remain gravely disabled. The Public Conservator also must investigate all possible alternatives to Conservatorship. If the Conservatorship investigation results in a recommendation for Conservatorship and it has been established in Court that you remain gravely disabled, you may be placed under "Permanent" Conservatorship, which may last up to 12 months.

14. If recommended for Permanent Conservatorship, will I be represented by an attorney?

Yes. If you are unable or do not desire to retain an attorney, one will be appointed for you by the Court at no charge. The facility will advise you of the name and phone number of your appointed counsel when they are contacted by the Court. It is advisable to contact your attorney as soon as possible to ensure that he/she has sufficient time to prepare your case.

15. Will I have a Conservatorship hearing or trial by jury to determine the issue of grave disability?

You may have either or both. You have the right to waive a hearing if you desire a trial by jury or you may request a jury trial within five days following your Conservatorship hearing. Again, you have the right to representation by an attorney and will be appointed an attorney if you are unable to afford one.

16. Will my Temporary Conservator act as my Permanent Conservator?

In recommending Permanent Conservatorship, the Conservatorship Investigator must designate the person or agency he/she has determined to be the most suitable to act as your Conservator. Consideration will be given to a friend, family member or public official. If a public official is appointed, he/she will be employed by the Public Guardian's Office.

17. What are some of the rights I may lose if placed under Conservatorship?

If you are placed under Conservatorship, the Court will order that you lose the right to refuse or consent to treatment related specifically to your being gravely disabled except for medication. The Court may order that you lose some or all of the following rights:

- a) the right to refuse or consent to other medical treatment unrelated to remedying or preventing the recurrence of grave disability
- b) the right to enter into contracts;
- c) the privilege of possessing a driver's license; and
- d) the right to vote.

18. How can I have my rights restored while under Conservatorship?

You or someone on your behalf, including your Conservator, may at any time during the one year period of Conservatorship petition the Court to contest or challenge the rights you have been denied or the power that has been granted to the Conservator. Except when initiated by your

Conservator, only one such request shall be made within the six-month period.

19. How can I have my Conservatorship terminated?

You have the right to petition the Court at any time for a rehearing as to your status as a Conservatee. However, after filing of the first petition for a rehearing, a Conservatee may not file another request for a period of six months. If you are found to be not gravely disabled, the Conservatorship will be terminated.

20. How will I know when my Conservatorship has ended?

The Conservatorship automatically terminates after one year (excluding the period of Temporary Conservatorship). If your Conservator does not petition to re-establish Conservatorship, the Court shall notify you that your Conservatorship has been terminated and any facility in which you are detained must release you upon your request.

21. Can my Conservatorship extend beyond the 12-month period?

The Conservator may petition the court for re-establishment of the Conservatorship. The petition for re-establishment must include the opinion of two physicians that you continue to be gravely disabled. If the Conservator petitions for re-establishment, you have the right to a hearing or a trial by jury.