

CONSERVATORSHIP & YOU

A Question and Answer Guide

Butte County Department of Behavioral Health

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

This pamphlet is designed to explain the conservatorship procedures to you as well as to outline your rights as a conservatee.

If any question you have is not answered in this brochure, please feel free to call the Public Guardian and Conservator in Butte County.

If you have any further questions regarding conservatorship or your rights in the mental health system, please call the Patient Rights Advocates.

Contact Us

Butte County Department of Behavioral Health

Office of Patient Rights

1196 E. Lassen Suite 130

(530) 343-1731 or (800) 497-1445

1. What is a mental health conservatorship of a person?

A conservatorship of the person is a protective relationship in which a person appointed by the court to serve as conservator acts in the best interests 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 and 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 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 Office of the Public

Guardian. 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 Office of the Public Guardian petitions, the Court may establish a temporary conservatorship for a period not to exceed 30 days based on the report filed by the Office of the Public Guardian. 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 a temporary conservatorship?

No. Neither you nor your representative appear in court prior to the establishment of temporary conservatorship.

6. Who acts as my temporary conservator?

The Office of the Public Guardian will act as 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

may allow you to return to your home, family or friends.

8. 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.

9. 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.

10. 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 one 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.

11. 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 may volunteer for treatment, -or-

C. You may be recommended for permanent conservatorship by your temporary conservator.

12. What is a permanent conservatorship?

See question 1. A person may be placed under permanent conservatorship, which may last up to 12 months only if it has been established in court that the person is in fact gravely disabled.

13. 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 to 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.

14. Will I have 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 jury trial within 5 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 them.

15. Will my temporary conservator act as my permanent conservator?

In recommending permanent conservatorship, the investigator must designate the person or agency he/she has determined to be most suitable to act as your conservator. Consideration may be given to a friend, family member or public official. If a public official is appointed, he/she will be employed by the county.

16. 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. 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 recurrence of grave disability.

B. The Right to enter into Contracts

C. The privilege of possessing a driver's license.

D. The right to vote.

17. How can I have rights restored while under con-

servatorship?

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 a six month period.

18. How can I have my conservatorship terminated?

You have the right to petition the court at any time within the first six months for a rehearing as to your status as conservatee. If you are found to be not gravely disabled, conservatorship will be terminated. Although you may petition for a rehearing at any time, only one such request shall be made within a six month period.

19. 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 reestablish conservatorship, the court shall notify you that your conservatorship has been terminated and any facility in which you are detained must release you.