

LPS CONSERVATORSHIP

WELFARE AND INSTITUTIONS CODE SECTION 5350

When an individual is involuntarily hospitalized on a 72-hour hold, and then has been placed on 14-day certification, the treating doctor can initiate a referral for Temporary Conservatorship (an additional 30-day hold). The legal requisite for establishing conservatorship is “grave disability,” which is defined as being unable to provide for the basic needs of food, clothing, and shelter, because of a mental disorder and is unwilling or incapable of accepting treatment voluntarily. The decision of the doctor to refer for Temporary Conservatorship is based on the individual’s current condition, as well as past history, with also a determination of an individual’s willingness to voluntarily participate in treatment and take medication. Therefore, it is very important to provide the hospital treatment staff with a detailed history of recent and past events that describe an inability to provide for food, clothing and shelter, as well as a pattern of not participating in outpatient treatment or taking medications. You may want to complete form AB 1424 found on this NAMI website and supplement this form with additional evidence, and including dates and places of other psychiatric hospitalizations.

Following the receipt of the referral for Temporary Conservatorship from the hospital’s treatment team, the office of Temporary Conservatorship prepares a Petition to Establish Temporary Conservatorship, which is then presented Ex Parte to the judge. This then establishes a Temporary Conservatorship for 30 days. During the term of the Temporary Conservatorship, the Conservatorship Investigation office will review and investigate the referral. This is done by interviewing the conservatee, his family/friends, reviewing records, and conferring with past out-patient treatment staff.

At the end of 30 days, a conservatorship hearing is held at the court house in Redwood City and a Conservatorship Investigation Report will be submitted to the Court and Private Defender. An appointed attorney is assigned to represent the conservatee at no cost. The Investigation Report can recommend that a permanent conservatorship be established (one year), or that the Temporary Conservatorship be continued (up to maximum of 6 months), or the Temporary Conservatorship be dismissed (if significant improvement has occurred or if a suitable third party, such as a family member or friend offers to provide care).

On the date of the conservatorship hearing, the conservatee can accept the recommendation of the Conservatorship Investigator or request a court or jury trial. If a trial is requested this will take place at a later date (usually 30 to 60 days). When a trial demand has been made the Temporary Conservatorship is continued until the date of the trial.

If a permanent conservatorship is recommended, a family member, friend, or the San Mateo County Public Guardian can be appointed conservator for a period of one year. The law requests that the Conservatorship Investigator recommend, “the most suitable person” to serve as conservator. The conservatorship can be re-established at the one year mark, provided the conservator has filed a Petition to Re-Establish conservatorship prior to the one year anniversary. The re-establishment of conservatorship requires the supporting documents of two doctors that state the conservatee continues to be gravely disabled.

The Conservatorship Investigation office is open for consultations. Call 650-363-4117 if you need help establishing a conservatorship. They are happy to be of assistance.