



## **Aging and Adult Services**

# **The Office of the Public Guardian**

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[www.SBCounty.gov](http://www.SBCounty.gov)

# Welcome!



# Human Services

## Aging and Adult Services



# What is the Office of the Public Guardian

The Office of the Public Guardian is a San Bernardino County office that acts as conservator, as ordered by the California Superior Court, of individuals who are one of more of the following:

- Gravely disabled due to mental disorder
- Lack the capacity to manage their financial affairs
- Unable to attend to their own care

Public conservatorship is the last resort and is ordered only when there is no relative, friend or private conservator able or willing to fulfill this function.



# The Goal of the Office of the Public Guardian

The goal of the Office of the Public Guardian is to ensure the safety, both financially and physically, of incompetent and mentally disabled persons, who meet the criteria for conservatorship, as required by law, when there is no viable alternatives to public conservatorship.



- The framework for the Office of the Public Guardian is built upon the State of California Probate Codes.
- The duties of this office are congruent with the laws set forth in the Probate Code.



- A Deputy for the Office of the Public Guardian is a duly sworn officer of the Superior Court of California.
- Deputies act on behalf of persons who are unable to manage their own affairs.



Routine and customary duties of the Deputy Public Guardian include, but are not limited to:

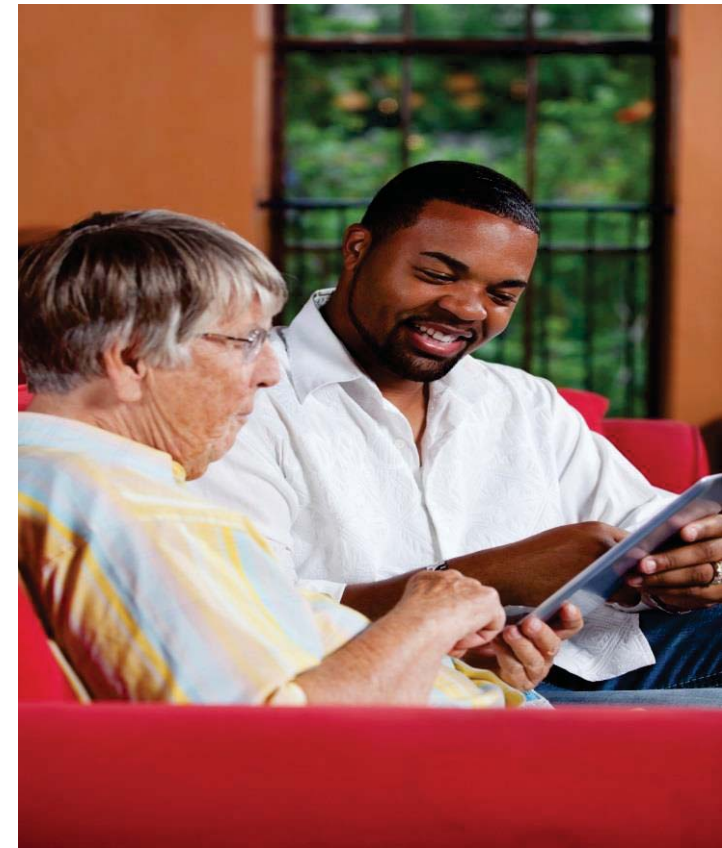
- Case management
- Placement and consent to treatment
- Payment of liabilities
- Marshalling of assets
- Inventory and appraisal
- Burial provisions and services
- Court accountings





A comprehensive assessment of each Conservatee, with concern of the total person, is conducted by the Office of the Public Guardian. The assessment includes but is not limited to the following:

- Medical and behavioral health
- Physical and environmental condition
- Level of care
- Facility or residence
- Activities of daily living
- Support systems
- Financial status
- Conservatee requests



The Office of the Public Guardian manages two distinct types of conservatorships:

- Probate conservatorships
- Lanterman-Petris-Short (LPS) conservatorships



- A probate conservator may be appointed for:
  - The person or the estate, or both, by anyone who voluntarily requests such for good cause.
  - The person, for anyone who is unable to provide for his/her physical health, food, clothing, or shelter.
  - The estate, for anyone who is unable to manage his/her own financial resources or resist fraud or undue influence.



**Reference:** Probate Code §1800.3

A petition for the appointment of a conservator may be filed by any of the following:

- The proposed Conservatee.
- The spouse or domestic partner of the proposed Conservatee.
- A relative of the proposed Conservatee.
- Any interested state or local entity or agency of this state or any interested public officer or employee of this state or of a local public entity of this state.
- Any other interested person or friend of the proposed Conservatee.



**Reference:** Probate Code §1820

A Probate Conservatorship Referral Packet is available for persons interested in referring an individual for a probate conservatorship.

Packets may be obtained via:

- San Bernardino County Office of the Public Guardian.
- Department of Aging and Adult Services (DAAS) website under the Public Guardian - Conservator tab.



Dementia powers are special powers granted to a probate conservator by the Court for Conservatees with dementia.

- A Capacity Declaration must be completed by a physician who documents the need for the dementia powers of placement and medication.
- The probate conservator is granted the power to:
  - Authorize medications appropriate for the care and treatment of dementia.
  - Place the Conservatee in a:
    - Secured perimeter Residential Care Facility for the Elderly (RCFE) or
    - Skilled Nursing Facility (SNF).

**Reference:** Probate Code §2356.5

A petition for a conservatorship under Welfare and Institutions Code (WIC) section 5350 can only be initiated by the officer providing conservatorship investigations for the County.

- LPS is short for the Lanterman, Petris & Short Act.
- The Act is named for the three California legislators who sponsored the legislation.

A conservator of the person and/or estate may be appointed for any person who is:

- Gravely disabled as a result of mental disorder or impairment by chronic alcoholism. Gravely disabled means either of the following:
  - A condition in which a person, as a result of a mental disorder, is unable to provide for his or her own basic personal needs for food, shelter, or clothing.
  - A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all the following facts exists:

**Reference:** Welfare & Institutions Code §5350 & §5008



When a professional 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 a mental disorder or impairment by chronic alcoholism and is unwilling to accept, or incapable of accepting, treatment voluntarily, a recommendation for conservatorship may be made to the officer providing the conservatorship investigation of the county of residence of the person prior to his admission as a patient in such a facility.

If the officer providing the conservatorship investigation concurs with the recommendation, the officer shall petition the Superior Court of California in the county of residence of the individual to establish conservatorship.

**Reference:** Welfare & Institutions Code §5350

The LPS Conservatorship Unit receives referrals from the following agencies:

- Loma Linda University Medical Center (LLUMC)
- Arrowhead Regional Medical Center (ARMC)
- San Bernardino Community Hospital
- Veteran's Hospital in Loma Linda
- Redlands Community Hospital
- Metropolitan State Hospital
- Patton State Hospital
- Napa State Hospital
- Canyon Ridge



# Mental Illness Commonly Resulting in Conservatorship

- Schizophrenia
- Bi-Polar Disorder (Manic Depression)
- Schizo-affective Disorder
- Clinical Depression
- Obsessive Compulsive Disorder



- The proposed Conservatee has the right to a jury trial on the issue of whether he/she is gravely disabled.
  - Whether a person is gravely disabled under WIC 5350 must be proven beyond a reasonable doubt.
  
- Once the conservatorship is established, the Court may impose the following disabilities on the LPS Conservatee:
  - The privilege of possessing a license to operate a motor vehicle;
  - The right to enter into contracts;
  - The disqualification to vote;
  - The right to refuse or consent to routine medical treatment; and
  - The right to own or possess a firearm.

**Reference:** Welfare & Institutions Code §5350 & §5357

- The conservator must place the LPS Conservatee in the least restrictive placement.
- The conservator is permitted to place the Conservatee in a locked psychiatric unit or state hospital; and
- Receive treatment related specifically to remedying or preventing the recurrence of the Conservatee's being gravely disabled, including administration of anti-psychotropic medication.



**Reference:** Welfare & Institutions Code §5358

## LPS Conservatorship:

- LPS Conservatees have a right to one rehearing on the issue of grave disability;
- LPS conservatorship terminate by operation of law after one year unless reestablished;
- Reestablishments require the opinion of two physicians or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of mental disorders.

**Reference:** Welfare & Institutions Code §5361

Appointment of the Public Guardian is the last resort.

All viable alternatives must be explored prior to Superior Court appointment of the Public Guardian for either a probate or a LPS conservatorship.

**Reference:** Probate Code §2920; Welfare & Institutions Code §5354

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