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*California's protection and advocacy system*

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**PRINCIPLES FOR ADDRESSING CONSERVATORSHIP OF PERSONS WITH  
DEVELOPMENTAL DISABILITIES BY A PUBLIC ENTITY**

**Adopted 2/19/2000**

1. The Lanterman Act ensures that persons with developmental disabilities have the right to make choices about major life decisions and daily activities. Because, by their nature, conservatorships limit individual autonomy and the ability to make choices, conservatorships for people with developmental disabilities, including individuals who reside in developmental centers, should be sought only when there is a specific, identifiable need of the person that cannot otherwise be met and that presents a serious, ongoing risk to his/her health, well-being or property. Appointment of a conservator should not be made for the convenience of the service system or society.
2. Prior to establishing a conservatorship, it should be demonstrated that there is no less restrictive alternative. Such alternatives could include powers of attorney, guardians ad litem, court authorization of medical treatment, statutory authorizations for medical consent, representative payeeships, trusts, statutorily empowered advocates, use of facilitators to assist in decision-making, self-advocacy training or advocacy assistance.
3. Before any decision is made to refer an individual with a developmental disability for establishment of conservatorship by a public entity, that individual's person-centered planning team shall carefully consider the individual's ability to make his or her own choices and methods including those identified in 2 (above) to assist with decisions. The planning team decision will be final. Where conservatorship is unnecessary, no referral shall be made.
4. Any petition to establish a conservatorship initiated by a public agency should be for a limited conservatorship only. This will ensure that the individual

retains as much decision-making power as possible, and the restrictions on the individual's rights and decision-making powers are narrowly confined.

5. Where a determination has been made by the planning team that referral for a limited conservatorship is necessary, the public entity will not petition for conservatorship where a family member is willing and able to serve as limited conservator, unless it would be contrary to the best interests of the conservatee.
6. For those persons with developmental disabilities who are determined by a court to need a limited conservatorship, the conservatorship functions should be performed only by a person or entity independent of the service funding and delivery systems, e.g., the Department of Developmental Services (DDS) and/or regional centers. DDS should obtain qualified conservators from among nonprofit entities that have knowledge and expertise with developmental disabilities.
7. Any person retained to perform the limited conservatorship functions for a person with a developmental disability should be the conservator for only a small number of individuals, to enable the conservator to meet regularly with each conservatee, become familiar with his or her capabilities, needs and desires, and participate in person-centered planning and other meetings as needed.
8. Any person retained to perform the limited conservatorship functions for a person with a developmental disability should be obligated to work on the substituted judgment model, which means the conservator's decisions should reflect, as closely as possible, the individual preferences or wishes of the conservatee. In making decisions on behalf of the conservatee, the conservator should be guided, to the extent feasible, by the expressed or inferred preferences and choices of the conservatee rather than basing decisions solely on what the conservator deems to be in the individual's best interest. In making substituted judgment determinations, the conservator shall be guided by the Lanterman Act's entitlement to services and supports in the least restrictive environment that foster the developmental potential of the person and are directed toward achievement of the most independent, productive and normal life possible.
9. Any person performing the limited conservatorship functions for a person with a developmental disability should receive adequate training to enable the conservator to competently perform his or her duties.

10. It should be recognized that conservatorship is not for life. Any individual referred for conservatorship should receive appropriate training before the decision is made to seek conservatorship or, where conservatorship is sought, a training plan should be put in place to ameliorate the conservatorship, if the conservatee so desires. Such training plan may include training in self-determination, assertiveness, communication, decision-making, use of a facilitator and/or self-advocacy.
11. The conservator shall perform his or her duties consistent with the following standards:
  - (a) The conservator shall meet in-person with the conservatee on a regular basis, be familiar with his or her capabilities, needs and desires, and actively participate on his or her person-centered planning team.
  - (b) The conservator should be someone committed to the well-being of the individual, know and understand the conservatee's needs and wishes and act in accordance with them.
  - (c) The conservator should be knowledgeable about the services, supports and systems that could significantly impact upon the life of the conservatee.
  - (d) The conservator must be accountable for his or her actions and have those actions reviewed periodically by the court. The conservatee's planning team should consider less restrictive alternatives to conservatorship and make recommendations to the court at the time of the review.
  - (e) The conservator shall ensure that the conservatee has access to:
    - i. a wide range of typical community experiences to understand the available options regarding places to live, work, learn, play and worship;
    - ii. opportunities for social interactions and relationships;

- iii. opportunities to acquire skills and develop beliefs that enable the conservatee to take greater control over his or her life;  
and
  - iv. opportunities to exercise decision-making skills.
- (f) The conservator shall treat the conservatee with respect and shall respect the choices made by the conservatee, provide him or her with opportunities to exercise decision making skills, and provide him or her with relevant information in an understandable form to aid the conservatee in making choices.
- (g) The conservator shall consider individually decisions made with regard to the conservatee. The conservator shall under no circumstances grant "blanket consent" for such things as medications, medical treatment or behavioral interventions.