

# Lanterman Petris Short (LPS) Conservatorship

## What is LPS\* Conservatorship?

LPS Conservatorship is a process in which the court appoints a person to make certain legal decisions for you. This person is called a conservator. Your conservator can make decisions like whether you can start or stop taking psychiatric medications, accept other medical treatment, manage your money and decide where to live. When you are on conservatorship, the court may limit your right to vote, to enter into contracts, to drive or to own a firearm. The LPS conservatorship can last for a maximum of one year at a time, and can be renewed in court at the end of the year.

## When would I be put on conservatorship?

You can be put on a conservatorship if the court believes that you are "gravely disabled" which means having a mental disorder that keeps you from being able to provide food, clothing and shelter for yourself.

## How does conservatorship get started?

Conservatorship is usually set up while you are in a hospital receiving psychiatric treatment. If your doctor of person responsible for your care believes that you need to be put on conservatorship because you have a mental disorder that keeps you from being able to provide food, clothing and shelter for yourself, he or she may make a recommendation to the person in the county who does conservatorship investigations. It is up to the investigator to decide whether or not to request the court to start a conservatorship.

Not everybody that meets the definition of "gravely disabled" is automatically put on conservatorship. You must be given a copy of the petition if one is filed, and told the time of the conservatorship hearing in court.

## Here are some things you can do to not be put on conservatorship:

It is important that you have a place to stay, and a way of getting food and clothes to stay off conservatorship. You don't have to own your own

home or have your own apartment to prove you have a place to live. Even if another person, such as a friend or relative, is willing to give you a place to stay, this can help you beat the conservatorship. Some people even find that good use of community resources such as food closets and community shelters can help them stay off conservatorship. If you have a good doctor or therapist in the community, it may be helpful to get them to testify for you on your behalf. Discuss with your lawyer the possibility of having the court appoint an independent psychiatrist separate from the hospital to evaluate you and to give another opinion as to whether you really need conservatorship.

## **What are my rights to challenge being put on conservatorship?**

### **You have the right to:**

- **Free legal representation**

The court will appoint an attorney to represent you free of charge if you cannot afford to hire your own lawyer. You and your lawyer also have the right to "subpoena" witnesses, which means requiring people who might have something helpful to say to come to court and testify for you.

- **Jury trial**

Most conservatorships begin with a hearing before a judge. However, if you want your case to be decided by a jury, you have that right. The law even gives you the right to have a hearing, and if you lose, then a jury trial. This jury trial is not automatic. You must request the jury trial within five days after the hearing. Discuss this with your lawyer.

- **Proof beyond reasonable doubt**

This is the highest standard of proof the law has. It is the same standard of proof applied in criminal cases.

## **How should I prepare myself for court?**

Dress as neatly as possible. Even if you disagree and feel angry about what might be said about you in court, it is important to remain calm. Be ready to explain in court how you will be able to take care of your basic needs, including having food, clothes and a place to live. If you know

someone who will testify on your behalf, especially by helping you with food, clothing and a place to stay, try to make sure they will show up in court for your hearing.

## **If I am put on conservatorship, who may act as my conservator?**

Your conservator can be a friend or a family member. You may nominate who you would like to be your conservator, although the judge decides who to pick. If the court finds no other person or agency able to serve as your conservator, the court will appoint your county public guardian as your conservator.

## **What is temporary conservatorship?**

If you are in the hospital, and are on a 14-day hold, at the end of the hold, you may be put on a temporary conservatorship for 30 days. To put you on temporary conservatorship, the court must believe that you are "gravely disabled," and may restrict some of your rights, like the right to refuse medications, to choose a place to live, etc. You are supposed to receive notice before the temporary conservatorship is established, but often people don't learn they are on temporary conservatorship until after they have been put on it.

## **How can I challenge a temporary conservatorship?**

If you know ahead of time that you are being considered for a temporary conservatorship, you can try to demonstrate that you do not fit the definition of "gravely disabled." You can do this by showing that you will be able to secure food, clothing and shelter. If possible, try to demonstrate these things to your and/or social worker, so that they may decide not to put you on conservatorship.

## **If I am put on a conservatorship, do I lose all my rights?**

No. The law specifically states that if you are in the hospital under conservatorship, you have the same rights as other people to wear your own clothes, to make confidential phone calls, to receive unopened correspondence, to have visitors daily, to have individual storage space, to keep reasonable amounts of your own money for canteen expenses, and other rights. Your conservator does not have the power to restrict or limit these rights in any way. You also have the right to be involved in your

treatment plan, and in placement decisions. If you feel you have been forced to live in a place that is too restrictive for your needs, or in the conservator has been given too much power over your life, you can ask for a special hearing in court to review these things.

## **How do I get off conservatorship?**

- **Rehearing:**

Even if you lose your conservatorship hearing or trial, there are things you can do. First, you may apply for a "rehearing" to try to show the judge that you are no longer "gravely disabled." However, once you have had one rehearing, you may not request another one for another six months.

- **Writ of habeas corpus:**

The United States Constitution allows anyone who believes they are being held illegally by the government (including by a conservator) to file a "writ of habeas corpus" to challenge the confinement. There is also a special law in California that allows any state hospital patient to file a writ. Ask your lawyer or advocate for assistance.

- **Challenge reestablishment:**

If you have been on conservatorship for a whole year, the county must decide whether to drop the conservatorship, or as the court to "reestablish" it. If the county decides to reestablish your conservatorship, you may challenge it and ask for a trial again before a judge or a jury.

**If you have any questions, contact your county Patients Rights Advocate:**

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- **Office of Patients' Rights**  
100 Howe Avenue, Suite 240  
Sacramento, CA 95825  
(916) 575-1610
  
- **Disability Rights California**  
Toll free 1-800-776-5746

**Central Office**

100 Howe Avenue, Suite 185N  
Sacramento, CA 95825  
(916) 488-9950

**Bay Area Office**

449 - 15<sup>th</sup> Street, Suite 401  
Oakland, CA 94612  
(510) 839-0811

**Los Angeles Office**

3580 Wilshire Blvd., Suite 902  
Los Angeles, CA 90010  
(213) 427-8747

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\* LPS stands for Lanterman, Petris & Short, the three senators who passed California's mental health conservatorship laws.

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