

# CONSERVATORSHIP

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Los Angeles County Department of Mental Health  
Office of Patient's Rights

Presenters:

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## **Slide 2**

### **Training Objectives**

- Discuss Conservatorship
- Discuss types of Conservatorships
- Discuss legal statutes of the conservatorship process
- Discuss conservatee rights
- Discuss conservator powers
- Discuss how advocates can support patients during Conservatorship process

## **Slide 3**

### **LANTERMAN PETRIS SHORT ACT (LPS)**

- Passed in 1969
- The purpose was to end the inappropriate, indefinite, and involuntary commitment of mentally disordered, developmentally disabled persons and persons impaired by chronic alcoholism
- Ensures prompt evaluation

WIC 5001

## **Slide 4**

### **LANTERMAN PETRIS SHORT ACT (LPS) (CON'T)**

- **Guarantees and protects public safety**
- **Safeguards individual rights through judicial review**

- Provides individualized treatment supervision, and placement services by a conservatorship program for gravely disabled persons

WIC 5350.1

## **Slide 5**

### **CONSERVATORSHIP**

- A court proceeding before a judge or commissioner of the Superior Court
- It is not a criminal nor a civil proceeding
- It requires proof of necessity
- Requires attendance by all involved parties

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### **4 TYPES OF CONSERVATORSHIP**

1. Limited
2. Guardianship
3. Probate
4. Lanterman Petris Short (LPS)

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### **LIMITED CONSERVATORSHIP**

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### **LIMITED CONSERVATORSHIP**

- For developmentally or intellectually disabled adults (Autism, Downs Syndrome, etc.)
- Client of the Regional Center

Probate Code 2351.5

## **Slide 9**

### **LIMITED CONSERVATORSHIP (con't)**

Gives conservator authority over the following:

- Housing
- Education
- Access to confidential records
- Medical treatment
- Consent to marriage
- Sign contracts
- Consent to social and sexual relationships

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### **LIMITED CONSERVATORSHIP (con't)**

Regional Center assesses client, prepares a report and makes recommendations to the court regarding the client's level of understanding, and ability to make decisions

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### **GUARDIANSHIP**

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### **GUARDIANSHIP**

- For unmarried minors
- A minor with an estate (Probate Conservatorship)
- A minor who is found gravely disabled by a mental illness by a treating psychiatrist (LPS Conservatorship)

Probate Code 1500

## **Slide 13**

### **GUARDIANSHIP**

Gravely Disabled Minor: a minor who, as a result of a mental disorder, is unable to utilize the elements of life which are essential to health, safety and development, including food, clothing or shelter, even though provided to the minor by others. WIC 5585.25

## **Slide 14**

### **GUARDIANSHIP**

The following does not constitute a mental disorder:

- Mental retardation
- Developmental disabilities
- Epilepsy
- Alcoholism
- Drug abuse

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### **PROBATE CONSERVATORSHIP**

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### **PROBATE CONSERVATORSHIP**

- Provides protective services for dependent or older adults
- Protective services do not include involuntary mental health treatment
- Any interested party can initiate Probate Conservatorship

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### **PROBATE CONSERVATORSHIP(Cont.)**

A conservator of the person may be appointed for a person who is unable to properly provide for his/her personal needs for physical health, food, clothing or shelter.

Probate Code 1801

## **Slide 18**

### **PROBATE CONSERVATORSHIP(Cont.)**

A conservator of the estate may be appointed for a person who is substantially unable to manage his/her financial resources or resist fraud and/or undue influence. Probate Code 1801

## **Slide 19**

### **PROBATE CONSERVATORSHIP POWERS**

- Change the address for the conservatee at the post office
- Open a bank account for the conservatees' money
- Transfer the conservatees' bank accounts, mutual funds, stocks, and bonds in one or more accounts into the conservator's name
- Gain access to the conservatees' safe deposit box and open a new safe deposit box in the conservator's name

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### **PROBATE CONSERVATORSHIP POWERS (Con't)**

- Provide a detain and treat to doctors and hospitals, informing them of conservator's authority to consent to the conservatees' medical treatment.
- Sign agreements such as leases and home care contracts for the benefit of the conservatee.
- Request information about the conservatees' affairs from government agencies, private businesses, pension plans, and others.

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### **PROBATE CONSERVATORSHIP POWERS (con't)**

- Apply for government or other benefits on behalf of the conservatee.
- Consult with attorneys about other legal matters concerning the conservatee.
- Gather the conservatee's assets from anyone who has been holding them for safekeeping.

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### **TERMINATION OF PROBATE CONSERVATORSHIP**

Conservatorship responsibilities can terminate under the following circumstances:

- The death of the conservatee
- The judge can terminate conservatorship at any time

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### **LPS CONSERVATORSHIP**

## **Slide 24**

### **HOW LPS CONSERVATORSHIP IS ESTABLISHED**

A conservator of the person, of the estate, or of the person and the estate may be appointed for any person who is gravely disabled as a result of a mental disorder or impairment by chronic alcoholism. WIC 5350

## **Slide 25**

### **HOW LPS CONSERVATORSHIP IS ESTABLISHED**

GRAVELY DISABLED- A condition in which a person as a result of a mental disorder is unable to provide for his or her basic personal needs, for food, clothing or shelter. WIC 5008(a)

## **Slide 26**

### **HOW LPS CONSERVATORSHIP IS ESTABLISHED**

#### **(con't)**

Gravely disabled persons also includes certain defendants in criminal trials who have been found incompetent to stand trial and meet other criteria. WIC 5008(a)

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### **WHO CAN INITIATE A LPS CONSERVATORSHIP?**

A person licensed in a mental health discipline by the State of California, who is on the psychiatric professional staff of an LPS designated facility or who has completed or is enrolled in an approved psychiatric residency training program in an LPS designated facility.

## **Slide 28**

### **HOW LPS CONSERVATORSHIP IS ESTABLISHED?**

- Usually starts with a patient having multiple involuntary psychiatric hospitalizations within a short period of time.
- Referral is initiated by the treating psychiatrist at a LPS designated hospital

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### **HOW LPS CONSERVATORSHIP IS ESTABLISHED**

#### **(con't)**

- Referral is sent to the Public Guardian's Office
- A copy of the referral is sent to County Counsel in the Mental Health Court
- County Counsel files a petition requesting Temporary Conservatorship

## **Slide 30**

### **HOW LPS CONSERVATORSHIP IS ESTABLISHED**

#### **(Cont.)**

- A Public Guardian investigator must determine if patient meets criteria
- Investigation includes face to face interview, gathering mental health, financial, social, biographical and personal information
- Must contact family, friends or interested parties to determine their interest in becoming conservator
- Submits report for court hearing

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### **HOW LPS CONSERVATORSHIP IS ESTABLISHED (cont.)**

An attorney is always assigned to represent the client

- Public Defender represents indigent clients
- Private attorney from the volunteer panel represents clients with funds

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### **HOW LPS CONSERVATORSHIP IS ESTABLISHED (Cont.)**

- Proposed conservatees' appearance is required unless waived by their legal representative
- Doctor's appearance is required

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### **LOS ANGELES COUNTY LPS POWERS AND AUTHORITY**

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### **LPS POWERS**

There are 8 powers that may be granted to the conservator by the court:

- 4-8a - Refers to placement and medical treatment
- 12 - Power to consent to medical treatment for specified chronic illnesses
- 13 - Power to manage and control the conservatee's estate  
WIC 5357, 5358



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### **LPS POWER 4**

Open Residential: To place the conservatee in a private residence, psychiatric or non-psychiatric residential care facility, board and care, nursing or other State licensed facility where the conservatee has free access into or out of the premises.

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### **LPS POWER 5**

Open Acute Care Hospital: To place the conservatee in a portion of a private acute care psychiatric hospital, State or County hospital, a hospital operated by the Regents of the University of California or by the United States Government, where the conservatee has free access into or out of the premises.

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### **LPS POWER 6**

Locked Nursing or Residential Facility: To place the conservatee in a medical or psychiatric nursing facility or other State or County licensed facility where the conservatee does not have free access into or out of the facility.

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### **LPS POWER 7**

Locked Acute Care Hospital: To place the conservatee in that portion of a State or County hospital facility, a hospital operated by the Regents of the University of California or by the United States Government or of a private acute care psychiatric hospital, where the conservatee does not have free access into or out of such hospital.

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### **LPS Power 8**

Mental Health Treatment: To require the conservatee to receive treatment, other than psychotropic medications, related specifically to remedying or preventing the recurrence of the conservatee's being gravely disabled.

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### **LPS POWER 8A**

Medication: To require the conservatee to be treated with psychotropic medication.

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### **LPS Power 12**

Medical treatment: For treatment of existing medical issues such as diabetes, cancer and other chronic illnesses.

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### **LPS POWER 13**

To manage and control the estate of the conservatee, to apply for any public or private benefits that the conservatee may be eligible for (Medicare, Medi-Cal, Veterans, private pensions, SSI)

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### **LPS LIMITED AUTHORITY**

- Authority is limited to the condition that causes grave disability (mental disorder)
- No experimental treatments
- No invasive medical treatment without a court order
- Conservator must petition the court on each separate medical issue
- Doctor requesting medical treatment must provide a 7-point letter.

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### **TERMINATION OF LPS CONSERVATORSHIP**

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### **TERMINATION OF LPS CONSERVATORSHIP**

Conservatorship will terminate in one year, by operation of law, unless the conservator files a new petition and has a new hearing with doctor's testimony. WIC 5361, 5362

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### **TERMINATION OF LPS CONSERVATORSHIP**

Conservatee may contact their attorney after six months and request a new hearing to contest the conservatorship. WIC 5358.3

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### **CONSERVATEE RIGHTS**

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### **CONSERVATEE RIGHTS**

Conservatee (or proposed conservatee) has the right to:

- Receive notice of hearings regarding the conservatorship.
- Appear at the hearings and oppose the petition for conservatorship.

California Probate Code 1823

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### **CONSERVATEE RIGHTS**

- Representation by an attorney
- Request a jury trial
- Ask a judge to change conservators or to end the conservatorship
- Vote, unless a judge takes away that right

- Marry  
California Probate Code 1823

## **Slide 50**

### **CONSERVATEE RIGHTS**

- Control personal spending money if a judge grants an allowance.
- Make or change will (unless the court grants this right to a conservator).

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### **CONSERVATEE RIGHTS**

- Make own healthcare decisions, unless a judge gives that right to a conservator (a judge will only give this right when a doctor has certified that the conservatee does not have capacity to consent to his or her own medical treatment).
- Have wishes considered.

Probate Code 2351(a)

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### **CONSERVATEE RIGHTS**

- Exercise various personal rights including the right to receive visitors, telephone calls, and personal mail.
- Be treated with dignity and respect.
- Be well cared for.

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### **GENERAL EFFECTS OF CONSERVATORSHIP**

- It shifts the responsibility for making personal and financial decisions from the client to the conservator.
- It imposes upon the client significant limitations on his/her civil rights such as where to live and to make medical decisions.
- Despite these restrictions it provides the best guarantee of protection for the client's interests.

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### **PATIENT'S RIGHTS ROLE**

- Inform Patient of the right to contest conservatorship at the end of the first six months.
- Encourage patient to complete their treatment plan by meeting the goals set therein.
- Offer supportive listening.

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### **THE END**