


**Limited Conservatorship**



LAW OFFICE OF  
ALEXIS LYNCH

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**What is a Conservatorship?**

A court case where a judge appoints a responsible person (a "conservator") to care for another adult (a "conservatee") who cannot care for her/himself.

<p><b>General Conservatorship</b></p> <p>Applies to an incapacitated person who does not have a developmental disability (for example, an elderly person with dementia).</p>	<p><b>Limited Conservatorship</b></p> <p>Applies to an incapacitated person with a developmental disability. The powers granted to the conservator are limited to specific powers allowed by law and chosen by the court.</p>
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**LPS Conservatorship**

- Lanterman-Petris Short Act
- Specific to people with a severe mental health disability
  - Initiated by the County, usually the Public Guardian's office initiates after multiple 5150 holds because the individual is a danger to themselves or others
  - Must be renewed yearly

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<h3>Conservatorship of the Person</h3> <p>Grants the conservator the power to make non-financial decisions related to the conservatee, such as place of residence, medical treatment, and education.</p>	<h3>Conservatorship of the Estate</h3> <p>Grants the conservator the power to manage the conservatee's assets other than wages and public benefits.</p> <p>If your child is receiving public benefits, you have the option to be the representative payee to manage those funds. For more information, visit <a href="http://www.ssa.gov/payee">http://www.ssa.gov/payee</a>.</p>
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### Alternatives to Conservatorship

- Advanced Health Care Directive
- Power of Attorney
- Release of Information
- Supported Decision Making

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### Supported Decision Making

A formal written document appointing specific people to support an individual in making their own decisions

Has not been put into law in California yet

[supporteddecisionmaking.org](http://supporteddecisionmaking.org)

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**Standard of Proof**

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**Probate Code §1801(a)**

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

**Probate Code §1801(b)**

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

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**What powers can I request under a conservatorship of the person?**

- Fix the residence or specific dwelling
- Have access to confidential records and papers
- Contract on her/his behalf and set aside contracts
- Consent to medical treatment
- Make decisions concerning education
- Control social and sexual contacts and relationships
- Consent or withhold consent to marriage, or entrance into a registered domestic partnership

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**A conservatorship intends to**

- Promote and protect the well-being of the individual
- Encourage development of maximum self-reliance and independence of the individual

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### Who acts as conservator?

**Family or Friend**  
You can appoint co-conservators such as parents or siblings

**Professional**  
There are professional conservators if a family member is not an option

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### The Process

- 1**  
File a petition and accompanying documents
- 2**  
An attorney is appointed to represent the proposed conservatee. The Regional Center is ordered to prepare a required report.
- 3**  
You must mail Notice of Hearing to necessary parties and have the proposed conservatee served with a Citation
- 4**  
The Court Investigator interviews various people and files a report
- 5**  
The hearing

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### Capacity Declaration (Form GC-335)

A California licensed physician or psychologist determines whether the conservatee...

Lacks the capacity to give informed consent to medical treatment.

Unable to respond knowingly and intelligently regarding medical treatment and/or

Unable to participate in a treatment decision by means of a rational thought process.

Is able to attend the hearing.

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### Filing a Petition

<p><b>Where?</b></p> <p>At the probate filing office of the county court where the proposed conservatee lives</p>	<p><b>When?</b></p> <p>A conservatorship cannot go into effect until the 18th birthday</p>	<p><b>Cost?</b></p> <p>\$435-\$465 filing fee unless you file a Request to Waive Court Fees and it is granted</p>
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### Fee Waiver

Form FW-001-GC - Request to Waive Court Fees  
 Form FW-003-GC - Order on Court Fee Waiver

If the proposed conservatee receives SSI, Medi-Cal or IHSS, fees will be waived

If the proposed conservatee does not receive public benefits but qualifies as low income, the fees will be waived

Fees may not be waived if the proposed conservatee is the beneficiary of a funded special needs trust

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### Petition and Accompanying Documents

1. Petition for Appointment of Probate Conservator (CC-310)
2. Confidential Supplemental Information (CC-312)
3. Confidential Conservator Screening Form (CC-314)
4. Duties of Conservator and Acknowledgment of Receipt of Handbook for Conservators (CC-349)  
<http://www.courts.ca.gov/documents/handbook.pdf>
5. Citation for Conservatorship (CC-320)
6. Notice of Hearing (CC-020) and attachment (CC-020-MA)
7. Capacity Declaration (CC-335)
8. Order Appointing Probate Conservator (CC-340)
9. Letters of Conservatorship (CC-350)

All documents, are called Judicial Council Forms and can be found at: <https://www.courts.ca.gov/forms>

Check with your local court to make sure they do not have any required local forms in addition to the judicial council forms

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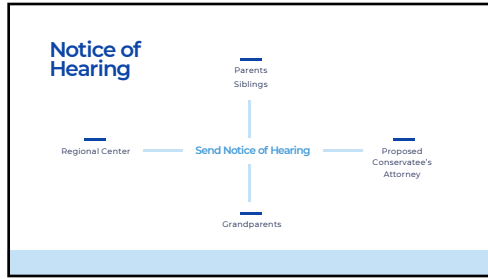
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**Serving the Citation**

The proposed conservatee must be personally served with the Citation and a copy of the petition no later than 15 days prior to the hearing.

Personal service: It cannot be mailed. It must be personally handed to the proposed conservatee.

The person serving must be 18 or over and not a party to the proceeding.

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**The Proposed Conservatee's Attorney**

In a limited conservatorship, all proposed conservatees are appointed an attorney by the court. The attorney is either a Public Defender or private counsel depending on the county.

The attorney will visit the proposed conservatee.

In some counties the attorney files a report with the court stating their position, and in other counties the attorney just communicates to the court their position at the hearing.

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**Regional Center**

The proposed conservatee is required to be assessed by the Regional Center within 30 days of the filing of the petition

The Regional Center is required to submit a report to the court prior to the hearing

The report will state the Regional Center's recommendation concerning each of the powers requested by the proposed conservator

[Probate Code §1627.5](#)  
The findings and recommendations of the regional center are not binding upon the court.

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**The Court Investigator Does the Following**

- Interviews the proposed conservatee and conservator
- Interviews other people involved with the proposed conservatee's daily life (family members, day program or school staff, etc.)
- Interviews the Regional Center case worker
- Runs a background check on the proposed conservators
- Files a report with the court detailing her/his findings
- Court Investigator fees are around \$850 but will be waived if you have filed a Request to Waive Court Fees and it was granted.

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**Do my child and I need to be at the hearing?**

- In most counties, you and your child are required to be at the hearing.
- The Court Investigator and the attorney will ask your child whether he/she wants to come to the hearing.
- The doctor can state on the Capacity Declaration that the proposed conservatee should not attend.
- In some cases, the proposed conservatee's attorney will waive his/her appearance.

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**What happens at a hearing?**

The proposed conservatee's attorney and your attorney (if you have one) will appear

The judge may ask some questions and usually the attorneys do all the talking

Assuming all is in order, the judge will sign the order

The court will file the order and then issue your Letters of Conservatorship

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**Letters of Conservatorship**

This document serves as evidence of the conservator's authority to act on the conservatee's behalf

The powers outlined in the Letters must match those outlined in the Order signed by the judge

There is a \$25(ish) fee for each certified copy you get

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**Documents that Must be Filed after the Hearing**

<b>Notice of Conservatee's Rights</b>	<b>Determination of Appropriate Level of Care</b>	<b>General Plan</b>
Must be mailed in 30 days to: <ul style="list-style-type: none"> <li>• Conservatee</li> <li>• Conservatee's attorney</li> <li>• Parents</li> <li>• Siblings</li> <li>• Grandparents</li> </ul>	Must be filed within 60 days (Form GC-355)	Most counties have their own form which must be filed within 90 days
Proof of mailing must be filed with the court (Form GC-341)		

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**Conservatorship Maintenance**

A limited conservatorship lasts for the lifetime of the conservator

The court will terminate the conservatorship if they find that it is no longer necessary

Court reviews - After the first year and every 2 years thereafter

Some counties require a status report be filed by the conservators at the review times

A conservator of the estate is required to file an accounting after the first year and every 2 years thereafter

If the conservatee moves, you must notify the court BEFORE and AFTER the move (Forms GC-079 and GC-080)

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**Down the Road**

Nominate a successor conservator in a legal document

Petition for the appointment of a co-conservator that can continue on as sole conservator once you are no longer able to serve

Make sure that any inheritance being left to the conservatee is designated to go to a special needs trust instead of to the conservatee directly

Set up an ABLÉ Account (529A account) for the conservatee  
More info on ABLÉ accounts:  
<http://tinyurl.com/ABLE10thingstoknow>  
<http://www.ableca.gov/>  
<https://www.ableca.gov/>

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**Thanks! Questions?**

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