



COUNTY OF FRESNO  
OFFICE OF THE PUBLIC GUARDIAN



## FREQUENTLY ASKED QUESTIONS

### **What is conservatorship?**

*Simple Answer:* The legal process for someone to make decisions for another person. Conservatorship is for adults and for children it is called a guardianship.

*More Information:*

Conservatorship is the legal process by which a representative, known as a conservator, is appointed to make decisions regarding the personal and/or financial needs of an individual who lacks the capacity to properly provide for those needs. A conservator is appointed by the court in order to protect mentally or physically impaired individuals from artful and designing persons (trying to exploit them), to ensure their proper care and treatment, to protect and/or recover their assets, and to manage their financial affairs. The conservator is accountable to the court for his or her actions and must make decisions based on the best interest of the individual on conservatorship.

In California there are two main types of conservatorship, probate conservatorship and LPS conservatorship. Probate conservatorship is for any reason other than mental illness and most often is used to help someone with dementia or dependent adults. LPS conservatorship is for individuals suffering from a mental illness.

### **What is the difference between the Public Guardian, Public Conservator, and Public Administrator?**

*Simple Answer:* They serve different groups of people who are not able to take care of themselves.

*More Information:*

The Public Guardian (PG), Public Conservator (PC), and Public Administrator (PA) are appointed by the court and act under the authority of the court and California legal codes to serve vulnerable residents of the county.

The Public Guardian primarily assists individuals who are substantially unable to provide for their own basic needs of food, clothing, and shelter. This is done through being appointed as a probate conservator. Probate conservatorships are most often established for adults who cannot care for themselves or manage their own finances. This type of conservatorship is often used for older adults with severe limitations and for younger people who have serious cognitive impairments.

The Public Conservator assists individuals with severe mental illness that makes them unable to provide for their basic needs of food, clothing, and shelter. This is done through being appointed as an LPS conservator (which is why, in Fresno, this office is called the Public LPS Conservatorship Team). LPS conservatorship provides the legal authority to require mental health services and arrange placement for persons who need psychiatric treatment but are unwilling or unable to accept it voluntarily.

The Public Administrator handles the estates of deceased persons who die with no will or without an appropriate person willing or able to act as administrator. The Public Administrator's primary duties are to protect, sell or distribute the deceased person's assets, make burial arrangements, pay outstanding bills and taxes, and ensure any remaining assets are distributed to the appropriate heirs.

### **Can the Public Guardian's Office help with obtaining a guardianship of a minor?**

*Simple answer:* No.

*More information:*

We are often asked this question due to the name of our office, so we felt it would be good to answer it here to help prevent confusion. The Public Guardian's Office is not involved in helping establish guardianships of minors. To find out more about guardianship or help filing for a guardianship, contact the Fresno County Superior Court. You can call the probate clerk's office at (559) 457-1888 or get information online at their website: <http://www.fresno.courts.ca.gov/probate/guardianship.php>.

## **Probate Conservatorship**

### **What are the criteria for probate conservatorship?**

*Simple Answer:* Being unable to provide for your own basic needs, manage your money, or protect yourself from people trying to exploit you.

*More Information:*

According to the California Probate Code, a conservator 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” or for a person who is “substantially unable” to manage his or her financial affairs or “resist fraud or undue influence.” Based on these criteria a conservatorship may be appointed of the person, the estate, or both the person and estate. Please note that a non-conventional lifestyle or someone being a nuisance to the neighbors or community does not by itself justify the need for a conservatorship.

### **Are there alternatives to conservatorship?**

*Simple Answer:* There are many other ways to help provide for someone’s needs that may prevent the necessity of a conservatorship.

*More Information:*

With advance planning there are some alternatives that can possibly prevent the need for conservatorship while also providing a smoother transition in the care of the disabled person and reducing the strain on loved ones. Planning ahead regarding both medical and financial decisions is critical. In some situations, a durable Power of Attorney, an advance health care directive, a living trust, or even a representative payee service may be sufficient. These alternatives often need to be put in place prior to a person becoming disabled so please consult with qualified professionals while loved ones are still in good health. If a person is already disabled or otherwise incapable of assisting with the establishment of alternatives, a conservatorship may be necessary.

As mentioned above, the use of a payee service may be sufficient to provide for an individual’s needs. For persons receiving Social Security benefits the Social Security Administration is encouraging the use of organizational or institutional payees. For more information see their website at

<http://www.socialsecurity.gov/payee/become.htm>.

Serving as power of attorney, trustee, or representative payee provides significant authority in the management of another person’s financial affairs. With this authority also come responsibility and accountability. To help you better understand what serving in any of these capacities entails, the federal Consumer Financial Protection Bureau’s Office for Older Americans has prepared several guides on managing someone else’s money. There are guides for persons serving as trustee, representative payee/fiduciary, or power of attorney. These guides are similar yet have specific information and resources depending on the type of financial management provided. The guides can be downloaded from

<https://www.consumerfinance.gov/consumer-tools/managing-someone-elses-money/>.

### **Is a Power of Attorney the same as a conservatorship?**

*Simple Answer:* No

*More Information:*

A power of attorney (POA) is a document used to give someone else authority to make decisions on your behalf. The person you choose to make decisions for you is often called an "attorney-in-fact" or agent. You can appoint someone to act in your place for financial, medical, or other purposes when you are not able to take care of yourself. While similar to conservatorship, there are some major differences between POA and conservatorship. Here are just a few:

- You do not have to go through the court to create a POA.
- A POA is created by someone before they are incapacitated. (He or she must be able to understand what they are doing when they sign the documents.) A conservatorship is appointed by the court after someone is incapable of making their own decisions.
- When you create a POA you choose the person or people who will make decisions for you, not the court.

- When you create a POA you get to choose the areas of your life the person you select has authority over.
- Since you created the POA you can also cancel it later or replace it with a new one, without getting an order from the court.

### **Can the Public Guardian help me create a Power of Attorney?**

*Simple Answer: No*

*More Information:*

The Public Guardian's Office is only involved in establishing conservatorships and only when the Public Guardian is to be the conservator. If you want more information on power of attorney (POA), some great resources can be found online at the Sacramento County Public Law Library. ([www.saclaw.org](http://www.saclaw.org)) They have created a very useful information sheet that also includes links to many other resources that can be found at <https://saclaw.org/wp-content/uploads/lrg-power-of-attorney.pdf>. In order to access their POA forms, go to <http://saclaw.org/legal-forms/>. If you scroll down just a little you'll see a light gray strip across the page with topics you can click on. Click on Power of Attorney and it will open a list of POA forms.

### **What are the benefits of a conservatorship?**

*Simple Answer:* The court keeps an eye on the conservator to help make sure the person they are responsible for is being taken care of. The conservatorship also provides more authority for the conservator than other options.

*More Information:*

There are benefits to both the person on conservatorship and the person appointed as conservator. One significant advantage of a conservatorship is the direct oversight by the Superior Court that ensures a higher degree of safety and security for the conservatee. The conservator is accountable to the court for the management of both the person and estate of the conservatee. The assets of the estate are also protected since private conservators are required to post bond based on the value of the estate.

Benefits for the conservator include greater decision-making authority than is provided through the alternatives mentioned in the prior question. A conservator's authority also supersedes (is greater than) that of a Power of Attorney or representative payee. In addition, a conservatorship cannot be revoked by the conservatee; unlike powers of attorney, which can be changed or revoked at any time by the person who granted the authority as long as that person remains legally competent.

### **What are the primary duties of a conservator?**

*Simple Answer:* Taking care of a person's physical needs and/or their money.

*More Information:*

The court can appoint a conservator of the person, the estate, or both person and estate. The following is a brief summary of a conservator's duties.

#### **Conservatorship of the Person:**

The conservator arranges for the client's care and protection, determines where he or she will live and makes appropriate arrangements for health care, housekeeping, transportation, and personal needs including recreation. The conservator must place the conservatee in the least restrictive, most appropriate placement. Other powers can be granted by the court as needed such as authority to make medical decisions or place the conservatee in a secured dementia facility.

#### **Conservatorship of the Estate:**

The conservator manages the client's finances, locates and takes control of assets, collects income due, pays bills, invests the client's money, and protects the assets. The conservator may also sell real or personal property belonging to the conservatee when it is in the conservatee's best interest. The conservator must provide for the maintenance and support of the conservatee using the assets of the estate. The conservator also applies for any public or private benefits for which the conservatee is eligible. The conservator is not required to use his or her own financial resources to care for the conservatee.

For more information about serving as conservator of the estate, you may want to review the guide created by the federal Consumer Financial Protection Bureau's Office for Older Americans titled "Managing Someone Else's Money: Help for court-appointed guardians of property and conservators". (download at <http://www.consumerfinance.gov/blog/managing-someone-elses-money/>) Keep in mind this is a federal resource and does not include legal advice or information specific to California.

### **Who can serve as a conservator?**

*Simple Answer:* Anyone the court chooses.

*More Information:*

Anyone can file a petition with the court to become someone's conservator. However, it is up to the court to decide who would be the most appropriate conservator for the person needing conservatorship. A conservator is usually a family member and can also be a friend or public agency such as the Public Guardian. Priority is given to family members if they are willing and capable of serving as conservator and if there is no conflict of interest. However, if you have ever been convicted of a felony crime you probably will not be able to serve as conservator.

### **How do I become conservator of my family member or loved one?**

*Simple Answer:* You must file a petition with the court and go through the court process to be appointed.

*More Information:*

To be appointed as conservator you must file a conservatorship petition with the Fresno County Superior Court. It is highly recommended that you obtain the services of a probate attorney or paralegal to assist you in the conservatorship appointment process. You can be appointed conservator without legal assistance. However, it is a complicated process that is often quicker and occurs more smoothly with competent legal assistance. Some resources to help you in this process are listed below.

- For detailed information on the process of petitioning for a conservatorship, we encourage you to visit the Self Help section of the Santa Clara Superior Court website (topic number 14 in particular). ([http://www.sccscourt.org/self\\_help/probate/conservatorship/conservatorship\\_overview.shtml](http://www.sccscourt.org/self_help/probate/conservatorship/conservatorship_overview.shtml))
- Legal forms you will need to file for conservatorship can be found at the California Courts website (<http://www.courts.ca.gov/forms.htm?filter=GC>), or a packet can be picked up for a small fee at the Fresno County Superior Court probate court clerk's office.
  - The clerk's office is located on the third floor of the B.F. Sisk Building in downtown Fresno. The address is 1130 O Street, Fresno, CA 93721.
- Additional helpful information can be found in the Self-Help section of the California Courts website. (<http://www.courts.ca.gov/selfhelp-conservatorship.htm>)
- A free conservatorship clinic was previously available for low-income persons through the Fresno County Public Law Library and Central California Legal Services, Inc. Unfortunately, the grant funding this clinic ended in 2017 and there is no replacement at this time.

### **Can the Public Guardian help me become conservator?**

*Simple Answer:* No.

*More Information:*

The Public Guardian's office is not able to assist family members in establishing a conservatorship. The Public Guardian's Office does not file petitions seeking the appointment of a third party such as a family member or friend.

### **When should I make a referral to the Public Guardian?**

*Simple Answer:* When you see an adult who is unable to take care of themselves or protect their assets, or is being taken advantage of by others and there is no one else to help them.

*More Information:*

As a general rule, a probate conservatorship by the Public Guardian is an option of last resort. To be referred, an individual must meet the criteria explained above; unable to provide for his or her food, clothing, or shelter or unable to manage his or her financial affairs. In addition, there must not be an appropriate alternative to

provide for those needs. The Public Guardian does not ordinarily file petitions for conservatorship of persons residing in nursing homes or hospitals unless the person is a victim of financial exploitation, another form of elder abuse, or family members are obstructing the persons care and treatment. The Public Guardian also does not typically seek conservatorship when the only needs of an individual are to make medical decisions, sign facility admission agreements, or assistance paying their monthly bills. Please refer to the next question for further clarification regarding individuals in a treatment facility.

Here are some sample cases that require appointment of the Public Guardian:

- A Fresno County resident lives alone in his own home and is unable to provide for his personal needs due to physical limitations after suffering a stroke a year earlier. The house has become severely disorganized with filthy conditions including food rotting on the kitchen counters, unsanitary bathrooms, and unopened mail is in piles around the house. He is also neglecting his self-care by not bathing and wearing soiled clothing. His mental abilities were also affected by the stroke and he is incapable of making complicated decisions such as those regarding his medical care and treatment.
- A Fresno County resident is hospitalized with severe medical problems and she must be discharged to a nursing home. Her family will not cooperate with the placement plans or facilitate payment for her care in a nursing home. It appears some family members are exploiting her financially by living off her meager Social Security income. They do not want her money used to pay for her necessary care and treatment but want her discharged back home against medical advice.
- A Fresno County resident's wife passed away after many years of marriage and he lives alone and seems confused and possibly suffering from dementia. A younger woman and man have befriended him and are now living in his home. They are observed frequently taking him to the local casinos, have purchased a new car, and appear to be coercing him in financial matters.

### **What about persons in nursing homes or hospitals who do not have family?**

*Simple Answer:* They probably do not need conservatorship unless others are taking their money or interfering in their medical treatment.

#### *More Information:*

The Public Guardian does not ordinarily file petitions for conservatorship of persons residing in nursing homes or hospitals unless the person is a victim of financial exploitation, another form of elder abuse, or family members are obstructing the persons care and treatment. The Public Guardian is often asked about conservatorship for an individual in a facility because he or she is unable to make medical decisions, sign facility admission agreements, or needs assistance paying bills including their placement cost. A conservatorship is not necessary in these cases because alternatives exist to meet those needs.

In regards to medical needs, [California Probate Code section 3200 et seq.](#) provides an avenue to obtain authority to make medical decisions without a conservatorship. Any interested person, including a patient's physician or treatment facility staff, may petition the court for authority. In addition, [California Health and Safety Code section 1418.8](#) provides that an interdisciplinary team can oversee the medical care of a patient when the patient lacks capacity to give informed consent to treatment.

The inability of a patient to sign facility admission documents is also addressed by California law. [California Health and Safety Code section 1599.65](#) states, "In the event the patient is unable to sign the contract, the reason shall be documented in the resident's medical record by the admitting physician." In addition, [California Welfare and Institutions Code section 14110.8\(b\)](#) maintains no facility may require or solicit as a condition of admission into the facility that a Medi-Cal beneficiary have a financially responsible party sign or cosign the admissions agreement.

A resident's inability or refusal to pay placement costs can be addressed with the help of Social Security. In fact, the Social Security Administration encourages institutions, including skilled nursing facilities, to serve as representative payees and assist with payment of monthly placement costs. For more information visit Social Security's web page on representative payees. (<https://www.ssa.gov/payee/become.htm>)

### **How do you make a referral to the Public Guardian?**

*Simple Answer:* You must complete and sign our referral form and deliver it to the Public Guardian's Office.



*More Information:*

If you are concerned about an elderly person or another adult you believe may be disabled and meets the criteria for conservatorship by the Public Guardian's Office, please call the Public Guardian's Office to discuss the situation and make sure a conservatorship is necessary. To help in this decision process, please be prepared to provide as much information about the disabled person as possible when you contact the office.

If it appears a conservatorship by the Public Guardian's Office is necessary, a referral form will need to be submitted. The form must be signed and dated and sent to the Public Guardian's Office. The original may be mailed or delivered to the Public Guardian's Office or it can be sent electronically by fax (559-600-1501) or e-mail (dbhpg@fresnocountyca.gov). A capacity declaration should also be completed if possible by the disabled person's doctor to clarify the level of impairment. Receiving a capacity declaration will help speed up the conservatorship appointment process. The referral forms can be mailed out by the Public Guardian's Office, sent to you via e-mail, or downloaded from the web page <http://www.fresnocountyca.gov/PGO>.

Please include as much information as possible on the referral form. This will help speed up the investigation process and help the Public Guardian protect the disabled person and his or her estate. If you have any questions about the forms please call the Public Guardian's Office at (559) 600-1500.

**What happens when the Public Guardian receives a referral?**

*Simple Answer:* It is assigned to a deputy and an investigation begins.

*More Information:*

When the Public Guardian's Office receives a conservatorship referral the case is opened and assigned to a Deputy Public Guardian. The deputy's job is to investigate and see if the proposed conservatee meets the criteria for a probate conservatorship. If the person meets the criteria and there are no appropriate alternatives to conservatorship, the Public Guardian may file a petition with the court to be appointed. Depending on the degree and nature of the person's disability and other factors, the Public Guardian will seek appointment as the conservator of the person's estate, person, or both estate and person. Once appointed by the court, the Public Guardian will manage the conservatee's placement, medical decisions, finances, and estate.

**How long does it take for the Public Guardian to be appointed as conservator?**

*Simple Answer:* Usually 3-4 months from when we receive a referral.

*More Information:*

The conservatorship process varies greatly from case to case depending on a number of factors. Appointment of the Public Guardian usually takes 3-4 months from the date a referral is received. The process may take longer in more complex or contested cases. In some cases, the court may determine conservatorship is not necessary or that another person or agency should serve as conservator instead of the Public Guardian.

**What if an emergency exists and an appointment is needed quickly?**

*Simple Answer:* There are ways the Public Guardian can act more quickly if needed, but if someone is in immediate danger you should contact APS.

*More Information:*

When needed to protect the proposed conservatee's health or assets, the Public Guardian may prepare and file a request for a temporary conservatorship to be appointed pending the hearing date for the petition for general conservatorship. However, this is not immediate and still involves time to investigate and obtain a court date. For emergencies involving the welfare of an adult, contact Adult Protective Services (APS) at (559) 600-3383 or 1-800-418-1426. The Public Guardian is able to quickly step in to marshal and protect assets that are at risk.

**What if I suspect an elder or dependent adult is being abused?**

*Simple Answer:* This is a crime. Call the police and APS.

*More Information:*

Abuse of elders and dependent adults is a crime. Abuse can take many forms, including physical and financial abuse or neglect. Suspected abuse should be reported to the local police and Adult Protective Services (APS), the agency responsible for investigating reports of abuse. The number for APS is (559) 600-3383 or 1-800-

418-1426. (As mentioned on the main web page for our office, the Public Guardian is not an emergency response agency.) Even when abuse cannot be substantiated as a crime, intervention may be necessary. Through the civil process of conservatorship the Public Guardian may be able to prevent further abuse by taking steps such as securing medical treatment or freezing assets.

**Do family members have any input regarding the care or financial management of a person when the Public Guardian is the conservator?**

*Simple Answer:* Yes, but decisions are made based on what is best for the person on conservatorship and the Public Guardian has the final say.

*More Information:*

The Public Guardian must make decisions based on what is in the best interest of the person on conservatorship. The Public Guardian tries to work with family members and significant others as much as possible when it is in the person's best interest. The Public Guardian realizes that healthy contact with loved ones is very important to a person's well-being and will facilitate this. On the other hand, when family members are creating undue stress or other problems for a person on conservatorship the Public Guardian has the authority to restrict or eliminate all contact.

**Who pays for the cost of an attorney?**

*Simple Answer:* It can be either the person filing the petition to be conservator or the person placed on conservatorship.

*More Information:*

Initially, the party petitioning for conservatorship must pay for legal fees if their attorney requests a retainer fee. Once the petition for conservatorship is granted by the court, the conservator may request court authorization for reimbursement from the conservatee's estate. For someone placed on conservatorship with the Public Guardian as conservator, attorney and court fees are taken from the person's estate upon the approval of the court.

**Does the Public Guardian charge fees for its services and who pays?**

*Simple Answer:* Yes.

*More Information:*

The Public Guardian charges fees for its investigation and case management services. These fees are usually requested when the first accounting is approved by the court one year after the conservatorship is established. A statement of services is attached to the accounting and explains all of the work done for which fees are requested. The fees are paid only after the court has approved them. Once approved, the fees for Public Guardian services are paid from the conservatee's estate. This accounting process continues throughout the lifetime of the conservatorship. Please note however that the Public Guardian accepts and investigates referrals regardless of an individual's ability to pay from his or her estate for the services provided.

## **LPS Conservatorship**

**What is LPS conservatorship?**

*Simple Answer:* The legal process for the County of Fresno to make decisions for persons who cannot take care of their basic needs because of a mental illness.

*More Information:*

In contrast to regular probate conservatorship, LPS conservatorship is specifically for individuals who suffer from mental illness and require mental health treatment. It is used only for people who have a psychiatric disorder so severe it prevents them from providing for their most basic personal needs of food, clothing, and shelter. The legal term for this is gravely disabled. An individual can be found gravely disabled even if someone else is willing and able to provide their basic needs if it is determined that the individual is unwilling or unable to benefit from the help of another person. The LPS conservator has authority to arrange placement and mental health treatment for the gravely disabled individual who needs mental health treatment but cannot

or will not accept it voluntarily.

### **What is the goal of LPS conservatorship?**

*Simple Answer:* To help persons with severe mental illness stabilize and be able to take care of themselves again.

*More Information:*

The goal of LPS conservatorship is treatment and restoration. The purpose of the conservatorship is to provide individualized treatment, supervision, and living arrangements in order to help the individual stabilize so he or she will no longer be gravely disabled and can be released from conservatorship and return to living independently.

### **Why is it called LPS Conservatorship?**

*Simple Answer:* It is named after the politicians who helped create it.

*More Information:*

LPS Conservatorship is governed by the Lanterman-Petris-Short Act, a division of the California Welfare & Institutions Code that was enacted in 1969 to “end the inappropriate, indefinite, and involuntary commitment of mentally disordered persons” and to provide treatment for their illnesses. The act is named after the three assemblymen who sponsored the original bill; Lanterman, Petris and Short.

### **Can a minor be placed on LPS conservatorship?**

*Simple Answer:* Yes.

*More Information:*

A minor can be placed on LPS conservatorship and the criteria are slightly different. According to the California Welfare & Institutions Code, a gravely disabled minor is one who, “as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.” Children are not expected to provide for their own needs, so a child must be unable to benefit from the provision by others.

### **Who initiates an LPS conservatorship?**

*Simple Answer:* Psychiatric hospitals or the criminal court.

*More Information:*

Family members or other private parties cannot initiate an LPS conservatorship. Only the Public Guardian’s Office can file a request, a petition, with the court for appointment of an LPS conservatorship. The Public Guardian’s Office receives referrals from locked psychiatric treatment facilities or the criminal justice system. The Public Guardian’s Office then investigates the need for conservatorship and makes a recommendation to the court.

### **How can I help get a loved one on LPS conservatorship?**

*Simple Answer:* By providing information.

*More Information:*

Although family members and friends cannot initiate the LPS conservatorship process, there are things they can do to encourage and facilitate it. Persons with a mentally ill loved one have something treatment providers don’t have but desperately need; information. You have the insider information that is needed to make the best decisions regarding treatment; including placement on an LPS conservatorship. It is very important that you share that information with the treatment providers and do so in a brief, summary format they can easily review. To help do that, the Public Guardian’s Office created the “Mental Health History and Symptoms” form you can download from the Public Guardian’s Office web page at [www.fresnocountyca.gov/PGO](http://www.fresnocountyca.gov/PGO). Rest assured the information will be taken into consideration. California law, AB-1424 passed in 2002, obligates those making decisions about involuntary treatment to consider information supplied by family members. The role of historic information when making involuntary treatment decisions was further clarified and strengthened through additional changes to the law that went into effect January 1, 2016. For more information see “A Guide



to California's AB 1424" prepared by the National Alliance on Mental Illness (NAMI). This can also be downloaded from the Public Guardian's web page.

Please note, if you can no longer provide for your loved one's care and believe LPS conservatorship is necessary, you must inform all persons involved in treatment that he or she cannot return to live with family/friends. Although it is difficult to say your loved one cannot return home, it is imperative you do so for an LPS conservatorship referral to be made. Some family members have even found it necessary to file restraining orders for their safety and to provide the necessary legal backing to set healthy boundaries and help their loved one get needed treatment.

It is also important that you help your loved one participate in any and all available outpatient treatment services. The Public Guardian's Office will consider whether outpatient treatment options can meet an individual's needs before recommending an LPS conservatorship. To find out what outpatient services are available and get your loved one involved, call the Urgent Care Wellness Center at (559) 600-9171 during regular business hours or the Department of Behavioral Health Access Line at 1-800-654-3937 24 hours per day, seven days per week.

### **What is the process to place someone on LPS conservatorship?**

*Simple Answer:* It starts with being placed on a 5150 hold and taken to a psychiatric hospital. The hospital can then refer someone to the Public Guardian's Office to investigate the need for LPS conservatorship.

#### *More Information:*

For an individual to be referred from a psychiatric facility he or she would first be placed on an involuntary hold pursuant to Welfare & Institutions Code section 5150. This is a 72-hour hold and at the end of that period if the individual meets the criteria he or she is placed on an intensive treatment hold for another 14 days pursuant to Welfare & Institutions Code section 5250. If during the 14-day hold the treating doctor determines that the individual is not stabilizing and will remain gravely disabled, a referral may be made to the Public Guardian's Office to investigate for LPS conservatorship. It is also possible for the hospital to place the patient on an additional 30-day involuntary hold pursuant to Welfare & Institutions Code section 5270. The hospital may also make a referral to the Public Guardian's Office during the early part of this hold.

Once a referral is received, the Public Guardian's Office immediately begins an investigation to determine the appropriateness of establishing an LPS conservatorship. The Public Guardian's Office must determine there are no less restrictive options available and the person needs to be placed on LPS conservatorship for the provision of his or her basic needs. If it appears an LPS conservatorship is necessary a petition is filed with the Superior Court for a 30-day temporary conservatorship. If a temporary conservatorship is granted, the County of Fresno Department of Behavioral Health is always appointed as the temporary conservator. During this temporary conservatorship the Public Guardian's Office will submit a written report to the court with a recommendation regarding the need for the conservatorship to continue. A court hearing is scheduled toward the end of the temporary conservatorship and if the individual continues to meet the criteria as gravely disabled he or she may be placed on a general, or "permanent", LPS conservatorship.

### **Who is appointed to serve as LPS conservator?**

*Simple Answer:* The Department of Behavioral Health is usually the conservator.

#### *More Information:*

If a general LPS conservatorship is appointed, the Director of the Department of Behavioral Health is usually appointed as the conservator of the person and the individual's finances are managed by the Public Guardian's Office. When the Department of Behavioral Health is appointed as conservator the individual is cared for by the Public LPS Conservatorship Office. A deputy conservator is assigned to ensure treatment and personal needs are provided. A private party can serve as LPS conservator of the person and representative payee if the investigation by the Public Guardian's Office finds there is an appropriate individual to serve in that capacity. However, private persons rarely choose to serve as conservator due to the possible personal financial costs of placing the conservatee in psychiatric treatment facilities.

### **How long does a person remain on LPS conservatorship?**

*Simple Answer:* Only as long as it is needed.

*More Information:*

A general, or “permanent”, LPS conservatorship terminates automatically after one year. If the person remains gravely disabled at the end of one year the conservatorship may be renewed and this can occur every year indefinitely. For a conservatorship to be renewed the two physicians or psychologists must state he or she remains gravely disabled. An LPS conservatorship may also be terminated at any time if the individual is found to no longer meet the criteria as gravely disabled. This termination can be initiated by the conservator or the conservatee can request a rehearing with the court through his or her public defender.

**What happens to a person’s money while they are on LPS conservatorship?**

*Simple Answer:* It is used to pay for their treatment.

*More Information:*

In the County of Fresno an LPS conservatorship is of the person only. In order to protect and manage someone’s finances while on LPS conservatorship, the Public Guardian’s Office will be the representative payee and ensure their resources are used for their care and treatment. If necessary due to the size or complexity of someone’s estate, the Public Guardian may be appointed as probate conservator of the estate.

*Taken from the FAQs page found at [www.fresnocountyca.gov/PGO](http://www.fresnocountyca.gov/PGO). Partially updated on 1/30/2024.*