

1. WHY AM I HELD?

You are being held because your physician has determined that you are gravely disabled.

2. WHAT DOES “GRAVELY DISABLED” MEAN?

It means that a physician sees you as unable to provide for your basic personal needs, such as food, clothing, or shelter, as the result of a mental disorder, and that you are either not willing or not able to consent to treatment voluntarily. The physician has also stated that no other person is available who can provide these needs for you. If you are a minor (under age 18), it means that you are unable to accept the care that is being provided by another person

3. WHAT HAPPENS NEXT?

Your physician will recommend that you be placed on temporary conservatorship with the Public Guardian, who must investigate the request and decide if there is evidence of grave disability to allow a petition to be filed in superior court. If so, the Public Guardian will ask the court to be appointed your temporary conservator, and a date will be set for you to appear in court. A judge or jury will make the final decision whether you are gravely disabled.

4. WHAT IS TEMPORARY CONSERVATORSHIP?

The court will appoint the Public Guardian as your temporary conservator, to act on your behalf, making sure that all your basic needs (such as food, clothing or shelter) are being met. You may also receive assistance in arranging for medical care and treatment, psychiatric care and treatment, and protection of your finances and your belongings. This temporary conservatorship will last up to 30 days, but may be extended by a court. Your temporary conservatorship will continue until the court makes its decision.

5. CAN I BE PLACED ON A TEMPORARY CONSERVATORSHIP WITHOUT GOING TO COURT?

Yes. Neither you nor your legal counsel will appear in court before you are placed on temporary conservatorship. However, you may object to this being done by filing a writ of habeas corpus through the Public Defender’s office. (See #8)

6. CAN I BE PLACED IN A MENTAL FACILITY AGAINST MY WILL?

Yes. Your conservator may be given the authority by the court to place you in a state hospital, locked skilled nursing facility, board and care home, or other facility which provides mental health care and treatment. If you are in an open facility, your conservator may require you to receive outpatient treatment and therapy. However, the law requires your conservator to place you in the least restrictive setting that meets your personal and treatment needs. You may also have a court hearing on the issue of your placement. (See #17)

7. CAN I REFUSE TO TAKE MEDICATIONS AS A CONSERVATEE?

No. However, you have the right to be informed and to participate in your treatment plan. It is important to let your physician know how you feel while on medication, especially if you have any side effects. Often the dose can be changed or you can be given a different medication that will lessen the side effects. For more information about your rights, please see the brochure, “DO I HAVE THE RIGHT TO REFUSE MEDS WHEN ON TEMPORARY CONSERVATORSHIP?” You can also call a Patients’ Rights Advocate with any questions.

8. HOW CAN I GET OFF TEMPORARY CONSERVATORSHIP?

You must file a petition for a writ of habeas corpus. This is a legal request for your release from the facility where you are being treated. You may obtain the forms from the facility staff, or from the Patients’ Rights Advocate. A staff, advocate, or lawyer can help you fill out the form, and you have the right to legal counsel during the court hearing. The judge will appoint a lawyer for you, even if you cannot afford one. You have the right to a court hearing within two working days after the writ is filed with the court clerk. You will appear in court and the judge will hear testimony on whether you are gravely disabled, and whether or not you should be released. You have the right to testify on your own behalf or to refuse to testify. In a conservatorship hearing, however, the court may require you to testify.

9. WHAT HAPPENS WHEN MY TEMPORARY CONSERVATORSHIP IS OVER?

One of two things will happen:

- A. You will be recommended for a one-year conservatorship by the Public Guardian’s office. (See #10)
- B. You will not be recommended for a one-year conservatorship, and all your rights will be restored. You then have the right to continue with treatment, inpatient or outpatient, or to terminate your treatment with the mental health system. This is your choice.

10. WHAT IS ONE-YEAR “PERMANENT” CONSERVATORSHIP?

It is similar to a temporary conservatorship, because the court still suspends your rights. It lasts for one year, and then must be either re-established or terminated. It can also be terminated during the year, if your physician decides you are no longer disabled.

11. IF I AM RECOMMENDED FOR A PERMANENT CONSERVATORSHIP, CAN I BE REPRESENTED BY AN ATTORNEY?

Yes. You are entitled to legal counsel at all stages of your conservatorship, both temporary and permanent. You may hire your own lawyer, or the Public Defender will represent you if you cannot afford a private attorney. In Santa Cruz County, you may reach the Public Defender at 831-426-2656, & in San Benito County the number is 831-636-0292. If you are a resident of another county, the hospital or Advocacy, Inc. can assist you in contacting the Public Defender from your county.

12. WILL I HAVE A TRIAL TO DETERMINE IF I AM GRAVELY DISABLED?

You may have a trial for the establishment of a permanent conservatorship. You will be represented by the County Public Defender. You can contact your Public Defender using the numbers above, or the Patient’s Rights Advocate can help with contact information.

13. WHO WILL BE MY PERMANENT CONSERVATOR?

The Public Guardian’s office will recommend whoever is best able and willing to act as your conservator. Anyone who you request will be considered. If you don’t request someone to be your conservator, or the Public Guardian’s office finds that the person you requested is not suitable, the Public Guardian will ask to be appointed. The court has the final say, and appoints your conservator. Your conservator is then legally responsible for you and acts for you.

14. WHAT ABOUT MY FINANCES?

Your money will be controlled by your conservator. You will not be permitted to write checks. The conservator will work with you to develop a budget and may provide an accounting on how money is spent to meet your needs. Checks for personal needs will be provided. Your conservator is also responsible for your other possessions.

15. WHAT RIGHTS DO I LOSE WHEN I AM CONSERVED?

The court may take away some or all of the following rights:

- A. The right to refuse or consent to any medical treatment unrelated to you being gravely disabled.
- B. The right to enter into contracts.
- C. The right to carry firearms.
- D. The right to a driver's license.
- E. The right to vote.

16. HOW CAN I HAVE MY RIGHTS RESTORED WHILE UNDER CONSERVATORSHIP?

You or someone on your behalf, including your conservator may, at any time during the one year period of conservatorship, petition the court to restore rights suspended by the court; such as, the right to vote, or the right to give informed consent. These and other rights can be restored by a judge while you remain on conservatorship. Only one such request may be made by you within a six month period; however, the conservator may make a request at any time or you may ask the conservator to do that. You may call the Public Defender to assist you in your petition for restoration of these and other rights. A court date will be set within 30 days, and you will be represented by legal counsel.

17. HOW CAN I END MY CONSERVATORSHIP?

At any time during your conservatorship, you can request a rehearing to determine your need for conservatorship. After the first petition is filed, if the court denies your request, you must wait another six months before you can request another rehearing. If the court finds that you do not need conservatorship, you will be released. You can contact the Public Defender to assist you in filing your petition. A court date will be set within 30 days. Because you have the legal burden of proof to show you no longer need to be conserved, you should work with your Public Defender to develop such evidence. You will be represented by legal counsel at all times.

18. HOW WILL I KNOW WHEN MY CONSERVATORSHIP HAS ENDED?

The conservatorship automatically terminates after one year of the appointment; this excludes the period of the temporary conservatorship. You will receive notice about 60 days before the conservatorship terminates. If the conservator does not petition to re-establish the conservatorship, the court will notify you of this, and any facility in which you are detained must release you upon your request. The Public Guardian deputy will also notify you if your conservatorship will be terminated.

19. CAN MY CONSERVATORSHIP EXTEND BEYOND THE ONE YEAR PERIOD?

Yes. The conservatorship can be extended for another year if the conservator obtains a written declaration from two physicians that you continue to be gravely disabled. You will be notified if the conservator takes this action, and you will have the right to a trial. You will be represented by legal counsel at all times. Your conservatorship can be re-established for one year periods as long as it is proved in court that you are gravely disabled.

This pamphlet is designed to explain the conservatorship procedure to you and to outline your rights as a conservatee.

If you have any questions, you are encouraged to call:

**The Patients' Rights Advocate
ADVOCACY, INC.**

831-429-1913



The Patient's rights Advocate Program is a program of **Advocacy, Inc.**, an independent nonprofit corporation serving the San Benito & Santa Cruz communities.

Services are free of charge.

Tax deductible donations are appreciated.

CONSERVATORSHIP

WHAT IS IT AND HOW IT WORKS

The Patients' Rights
Advocate Program
of
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Counties



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