

PAGC Referral Process

Probate: Referrals come from several sources and must have a medical or capacity declaration signed by a doctor accompanying them. Conservatorship referrals are for adults who are unable to care for themselves and/or manage their own estates. The referral may prompt an investigation leading to the establishment of a Probate Conservatorship of the Person or Estate pursuant to provisions of the California Probate Code.

LPS: Referrals are made by the Medical Director for adults who are in an acute psychiatric hospital on an involuntary hold. The person's symptoms are so severe that they are gravely disabled and lack the capacity to provide food, clothing, and shelter for themselves.

PA: Referrals are accepted by phone or fax. If by phone, a form is sent out to obtain the information needed to start a new referral investigation. If the referral is faxed, it must contain the vital information of the decedent and any information on attempts to locate family. Within 30 days the Public Administrator will determine if they will accept the case. The case must have \$3,000 or more in liquid assets and meet other criteria. During this time period, PA is looking for next of kin, funds to make burial arrangements, estate planning documents and determining if there are assets at risk.

How Long Does a Conservatorship Last?

Probate: A temporary Probate Conservatorship may be appointed until a permanent appointment is made or an alternative plan is established (and temp conservatorship is dismissed). A Probate conservatorship may be terminated by the Court upon request or by death of the conservatee. Often a Probate Conservatorship lasts for the lifetime of the adult.

LPS: A temporary LPS Conservatorship is effective for approximately 30 days from the date of appointment unless extended by court action. In no instance can a temporary conservatorship be extended beyond 6 months. Upon appointment of the permanent conservator, the conservatorship ends one year from the date of appointment unless a petition for reappointment is filed and granted by the court. The same process must be repeated annually.

Services provided by the Office of the Public Administrator/Guardian/Conservator are authorized by California Statute and monitored by the Probate Division of the Superior Court of California.

How Long Does Public Administration Take?

Small estates that are non-court supervised typically take up to 18 months to process. Depending on the complexity of full probates (court supervised), the time of administration varies.

For More Information Refer To:

Handbook for Conservators available at <http://www.courts.ca.gov/documents/handbook.pdf>

Office of the Public Administrator/Guardian/Conservator website:
<http://www.sccgov.org/pg>

PAGC Main Line: (408) 755-7610

WHAT IS CONSERVATORSHIP?

WHAT IS PUBLIC ADMINISTRATION?



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Public Administrator Guardian Conservator

Welcome to the Office of the Santa Clara County Public Administrator/Guardian/Conservator (PAGC). The Office of the Santa Clara County Public Guardian represents those persons who are incapable of making decisions for themselves. There are three divisions in our office devoted to insuring the physical, financial, and well-being of our PAGC clients; and the management of their estates.

The **Probate** Division acts as conservator for adults with cognitive impairments and estate risks. As probate conservator, Public Guardians are involved in all aspects of their conservatees lives. This includes: financial management, medical care, housing placement, and advocacy. Most often, the adults served by the PAGC Probate Division cannot care for themselves due to dementia, traumatic brain injury as well as being at risk for undue influence.

The **Lanterman-Petris Short (LPS)** Division serves as conservator for adults with serious mental illness. As LPS conservator, the Public Guardians are responsible for the mental health treatment and appropriate placement of their clients. Referrals for a LPS conservatorship can only come from a psychiatrist who is affiliated with a hospital.

In both Probate and LPS conservatorships, the PAGC is appointed by the court as a last resort; when there are no alternatives other than a public conservatorship.

The **Public Administrator (PA)** Division focuses on investigating and administering the estate of persons who die without a will, or without an appropriate person willing or able to act as an administrator. The PA must petition the Court to be appointed as executor/administrator or trustee of the estate.

Once appointed, the Public Administrator searches for family/heirs, takes immediate control and manages client's assets, makes burial arrangements, pays creditors and oversees the distribution of the estate.

What is a Conservatorship ?

A conservatorship is a legal proceeding in which a conservator or a "protector" is appointed by a judge to manage the financial affairs and/or daily living of another due to cognitive impairment or mental limitations. A person under conservatorship is a "conservatee". The conservator is given legal authority to make decisions for a person unable to resist fraud, undue influence, has dementia, cognitive impairments, or a serious mental illness. The conservator may also be appointed by the court to manage and protect the finances and assets (money, property, income and business affairs) of the conservatee. The conservatorship is overseen and monitored by a Deputy Public Guardian Conservator (DPGC). The DPGC is required to consider the conservatee's expressed desires and personal values in decision-making and act in the conservatee's best interest. The DPGC encourages the conservatee to participate in decision-making whenever possible, and helps the conservatee develop or regain the capacity to manage their own personal affairs, if possible.

A conservator has many legal decision making powers in managing the conservatee's daily affairs. However, there are limits to those powers and some require court approval/actions.

Types of Conservatorship

Probate Conservatorship — The conservatorship is established for adults, most often older people and cognitively impaired individuals. The probate court can appoint a conservator of the person and/or estate or both depending on the needs of the conservatee.

Conservatorship of the Person: duties of the conservator include arranging for the conservatee's living arrangements, health care, protection, food, clothing, personal care, housekeeping, transportation and recreation. Depending on the conservatee's ability to understand and make decisions, the conservator may need to make medical decisions for him/her.

Conservatorship of the Estate: duties of the conservator include managing the conservatee's finances, locating and taking control of assets, collecting income, making a budget, paying bills, investing money, and protecting and managing assets.

LPS Conservatorship – A mental health conservatorship makes a court-appointed conservator responsible for a mentally ill adult. The Court must find beyond a reasonable doubt that the mentally ill person is gravely disabled. A Grave disability means that because of a mental disorder, the person cannot care for their basic needs for food, clothing or shelter. The conservator is responsible for managing the conservatee's placement and mental health treatment. The conservator of the person can approve placement in a locked facility, if recommended by a psychiatrist, and can agree to the use of psychotropic medications. The conservator of the estate is responsible for marshalling, protecting, and managing the conservatee's assets that remain in their estate.