

his/her money and property. The judge may waive the requirement for medical evidence, but must explain the reason for waiving it. The judge may order the evaluation of the individual by another physician, psychiatrist, or psychologist. The judge may also consider other relevant evidence, such as the individual's physical and social functioning or the availability of support from family or other sources. The respondent (with the help of his/her lawyer) can present evidence of his or her condition and ability to manage.

How Does the Judge Decide Whether a Conservator Is Necessary?

The judge must find by **clear and convincing evidence** that the individual is incapable of caring for himself or herself (for conservator of the person) and/or is unable to manage his or her financial affairs (for conservator of the estate) and that the appointment of a conservator is the least restrictive means of intervention available to assist the respondent in managing personal affairs or self care.. In making the decision, the judge must consider eight factors set out in the These include: the person's abilities, capacity to understand and express informed preferences about his or her care or management of his or her affairs, other previously made arrangements (such as powers of attorney or health care representatives and advance directives), information about past practices and preferences and any supportive services, technologies or other means that are available to assist the respondent to meet his or her needs.

Can the Probate Court's Decision BeAppealed?

YES. Any party to the conservatorship proceeding who is dissatisfied with the decision can appeal to the Superior Court within forty-five days of the issuance of the decree. An attorney appointed by the court to represent the respondent at a conservatorship hearing is required to assist a respondent to file an appeal, but is not required to represent him/her on appeal. If forty-five days have already passed, there may be other ways to challenge the conservatorship.



CONNECTICUT
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HOW A CONSERVATOR IS APPOINTED

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Connecticut Legal Rights Project, Inc., is a statewide non-profit agency which provides free legal services to low income adults with mental health conditions, who reside in hospitals or the community, on matters related to their treatment, recovery, and civil rights.

**For more assistance contact
Connecticut Legal Rights
Project, Inc.
Toll Free 1-877-402-2299
TTY 860-262-5066
860-262-5030
www.clrp.org**

The information in this flyer is effective as of December 2016

- 1. CONSERVATORSHIPS BASICS
- 2. HOW A CONSERVATOR IS APPOINTED
- 3. HOW TO HOLD A CONSERVATOR ACCOUNTABLE
- 4. CHANGING OR TERMINATING A CONSERVATORSHIP

**LEGAL REPRESENTATION FOR PEOPLE
WITH MENTAL HEALTH CONDITIONS**

UNDERSTANDING CONSERVATORSHIPS

Conservators are appointed by the Probate Court to assist individuals who are found to be incapable of caring for themselves and/or their property. They can play an important part in helping individuals with mental health conditions manage aspects of daily living, such as paying bills, if they are unable to handle it themselves. However, conservators can exercise much control over an individual's life, and that can sometimes interfere with the person's ability to become as independent and self-sufficient as possible. Changes in the Connecticut conservatorship statute that went into effect on October 1, 2007 shift the emphasis to ensuring that people maintain as much independence and control over their decision-making as possible. This should help to ensure that conservators do not make decisions for people when they have the capacity to make those decisions themselves. Therefore, it is important that persons with psychiatric disabilities understand their rights as they relate to conservators.

Because appointing a conservator limits an individual's freedoms, the State has established guidelines and procedures to assure that the rights of individuals are protected before a conservator is appointed. This flyer has been developed to answer some of the most frequently asked questions about conservators. It is not intended to provide legal advice or to address every detail related to conservatorship law and procedures.

What is a Conservator?

A conservator is a person or agency appointed by the Probate Court to oversee the financial and/or personal affairs of an adult who is found to be incapable of managing his or her affairs. A conservator may also be appointed for a capable person who requests such assistance. All conservators' duties and powers are limited to those explicitly set out in the court order.

How Is a Conservator Appointed?

Any person may file an "Application for the Appointment of a Conservator" with the Probate Court in the district where the individual who is alleged to be "incapable" resides. The Probate Court will hold a hearing within thirty days of receiving the application, although the hearing may be postponed for good cause. A conservator may also be appointed for a person who requests such assistance without a finding that the person is incapable (a "voluntary conservator").

How Does the Individual Receive Notice of the Conservatorship Application?

By personal (in hand) service at least ten days before the hearing. The law requires that the notice must say what kind of conservatorship is being sought, the time and place of the hearing and MUST describe the possible consequences of the appointment of a conservator, as well as the right to be present and to have an attorney. No evidence can be presented at all without proof of timely service of the notice. (Certain conservatorships for authority to administer psychoactive medication in hospital settings require only 7 days notice.)

Does the Person Have the Right To a Lawyer?

YES. The individual who might be conserved (called the "respondent") can be represented by an attorney of his/her choice. An attorney must be appointed by the court to represent the respondent at the hearing if the person is unable to request or pay for one. The court must permit the individual to retain the attorney of his/her choice. The court must pay for the attorney if the respondent is indigent and if the attorney will accept the probate court's (limited) payments. Most probate courts automatically appoint an attorney, but a person can use a different attorney.

Does the Individual Attend the Hearing?

YES. The individual who is the subject of the hearing has the right to be present at the hearing, and it must be held at a place other than the Probate Court if that would make it possible for him or her to attend.

Is There a Record of the Hearing?

Yes, the hearing must be recorded.

What Must Be Shown To Have a Conservator Appointed?

The person who filed the application for a conservator is required to present medical evidence at the hearing from at least one physician who has examined the respondent within forty-five days of the hearing. The evidence must contain specific information regarding the respondent's condition and the effect of the condition on the respondent's ability to care for him/herself or to manage