

## Can a Conservator Charge For His Or Her Services?

Both the conservator of the person and the conservator of the estate are allowed to charge fees. The fee must be reasonable for the services provided; the law limits the fee in certain cases. For example, an attorney should not charge the usual legal fees rate to perform (non-legal) tasks like grocery shopping. If a person is indigent, the conservator should be paid for by the court or by Probate Court Administration. You may need to apply for a fee waiver to have the conservator's fees paid by the probate court or by Probate Court Administration.

## Are Conservators Required To Report To the Probate Court?

The conservator of the person must file a report on the conserved person's condition at least every year with the Probate Court. The conservator of the estate is required to file an accounting only every three years. However, the Court, or any interested party (**including the conserved person**) can request an accounting more often, and it must be provided.

If a conservator is violating any of these rules, the conserved person can ask the Probate Court to:

- Order an accounting of charges
- Restrict the conservator's authority
- Change the conservator
- End the conservatorship.

## Are Conservatorships Routinely Reviewed?

Conservatorships are reviewed one year after they begin and then at least every three years to decide whether the conservatorship should be continued, changed or ended. Within forty-five days of a request from the Court, the conservator and a physician must submit a written report to the Court on the condition of the conserved person. The Court must provide copies of those reports to the conserved person and

his/her attorney. For these reviews, the judge can choose whether or not to hold a hearing, but there must be a hearing if it is requested by the conserved person, conserved person's attorney or the conservator. For more information on how to end a conservatorship, see CLRP pamphlet #4, Changing or Terminating a Conservatorship. A conserved individual can request a hearing at any time to request a change in the scope of authority of the conservator, to request that the conservatorship be terminated, to change the conservator or to challenge other actions of the conservator. It may be necessary to get a fee waiver granted to obtain a hearing.

Connecticut Legal Rights Project, Inc., is a statewide non-profit agency which provides 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](http://www.clrp.org)**

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## HOW TO HOLD A CONSERVATOR ACCOUNTABLE #3



### CONSERVATORSHIP FLYERS

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

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

## Introduction

For years, conservators had the right to make all decisions for conserved persons. Often, the conserved individual was not consulted in decision-making and his or her preferences were not considered.

Connecticut changed the law in 2007. Now, conserved individuals should be able to have as much control over their lives as possible. The Probate Court judge is supposed to give the conservator only specific rights and responsibilities that the conserved person cannot manage on his/her own. Unfortunately, many people, including some judges, continue to act as if conservators have complete decision-making authority. In order to know what authority a conservator has, you have to see the written decision of the judge, also called the "court order" or "decree".

This flyer is one of a series developed by CLRP to provide information on the rights and responsibilities of conservators. The focus of this flyer is holding a conservator accountable.

## Understanding the Scope of Authority

The probate court judge must set out in the court order exactly what duties and authorities are necessary to meet the needs of the conserved person. The judge may not restrict the decision-making authority of the conserved person beyond that. The judge **must** list the duties and authority of the conservator and find clear and convincing evidence to support the need for each duty or authority assigned.

In order to hold a conservator accountable, you must know what specific duties and authority that the Probate Court judge gave to the conservator. This information should be in the court order (decree). You need a copy of the decree.

## What Are the Duties of the Conservator?

The duties of a **conservator of the person** may include caring for the person's health care, comfort,

and personal effects, as well as deciding where the person lives. However, each duty must be set out in the decree. While the conservator can consent to medical care if the decree orders it, the authority to consent to involuntary psychiatric medication is not included and the law requires a separate proceeding that can occur only when a person is hospitalized.

A **conservator of the estate** is responsible for managing the individual's income and assets. Like the conservator of the person, the conservator of the estate only has those duties that are listed in the court order and supported by clear and convincing evidence. Conservators must carry out their duties using the least restrictive means of intervention. A conservator of the estate must complete an inventory of the individual's assets and file it with the Probate Court within two months of appointment. The conservator must use the income and assets to support the individual by paying bills and collecting any debts owed to the individual. The conservator must consult with the Probate Court before the sale or mortgage of assets or anything other than routine expenditures.

A conservator of the estate is also required to purchase a bond (insurance); a conservator of the person may be required to purchase a bond if the court deems it necessary. In most cases, the court does not force conservators of people with few assets and low income to purchase bonds.

The conserved person retains any and all rights and authorities not assigned to the conservator in the court order. You need that decree!

A conservator must

- carry out the duties and authorities in the least restrictive manner,
- assist the conserved person in removing obstacles to independence and achieving self reliance,
- find out what the conserved person's preferences are, and
- make decisions following those preferences

## Can a Conservator Force a Person To Move From Her Home?

**Not without a court hearing.** A conservator cannot commit a person to a psychiatric hospital or otherwise change a conserved person's residence, including moving a person to a nursing home (except in certain emergency/exceptional circumstances), without first having a hearing in probate court. A conservator cannot end a lease or other tenancy, sell a conserved person's house, or dispose of a conserved person's household furnishings and belongings unless a court of probate finds after a hearing that the action is necessary or that the conserved person has agreed to it.

## Can a Conservator Override the Individual's Civil Rights?

**NO.** The "Patients' Bill of Rights" states the individual rights of persons receiving mental health services; those rights can be restricted only if a judge specifically authorizes it. The Connecticut Supreme Court held that a conservator cannot prevent a conserved person from having advocacy services authorized under the Bill of Rights unless the Probate Court specifically orders this restriction of the individual's civil rights. Connecticut General Statutes §45a-650(m) states that the imposition of a conservatorship shall not "impair, limit or diminish a conserved person's right to retain an attorney to represent [him or herself] or to seek redress of grievances in any court or administrative agency" including challenging the conservatorship. A conserved person retains the right to release his/her medical records even when the conservator has the right or duty to make medical decisions.