

## UNDERSTANDING CONSERVATORSHIPS

Conservators are appointed by the Probate Court to assist individuals who are found to be unable to care for themselves and/or their property. Conservators can help 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; that can sometimes interfere with the person's ability to become as independent and self-sufficient as possible. Connecticut conservatorship law changed in 2007 to shift the emphasis to ensuring that people maintain as much independence and control over their decision-making as possible. Conservators should not make decisions for people when they have the capacity to make those decisions themselves. Therefore, it is important that persons with mental health conditions understand their rights as they relate to conservators.

Because appointing a conservator limits a person's freedoms, Connecticut law includes strict rules to protect the rights of individuals before a conservator is appointed. This flyer answers 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 own affairs. A conservator may also be appointed for a capable person who requests such assistance. In all cases, the conservator's duties and powers are limited to those explicitly set out in the court order.

### Conservators are Not Forever!

Too often conservatorships are regarded as permanent and rigid. However, as an individual recovers and gains independence, the conserved person should have more control over his or her own decisions. Often, the conservator's authority should decrease, and conservators who do not respect the preferences of the person in recovery should be changed.

### What are the Duties of a Conservator?

The probate court judge must set out in the court order (decree) exactly what duties and authorities are necessary to meet the needs of the conserved person and may not restrict the decision-making authority of the conserved person beyond what is necessary to provide for those needs. Thus, the judge must find clear and convincing evidence to support the need for each duty or authority assigned. The conserved person retains all rights and authorities not set out in the court order as assigned to the conservator.

The duties of a **conservator of the person** may include activities related to the person's care, comfort, and personal effects. While the conservator can consent to routine medical procedures, this authority is limited by the statutory rights of persons receiving mental health treatment services under the Patients' Bill of Rights. The conservator cannot force a person to take psychiatric medications in the community and a conservator cannot commit a person to a psychiatric hospital. The **conservator of the estate** is responsible for managing the individual's income and assets to assure that his/her rights and interests are protected.

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 in conformance with those preferences

### Decreasing the Conservator's Authority

Even if the conserved person does not want to change or remove the conservator, the Probate Court can decrease the authority of the conservator. Sometimes this can be a useful first step toward terminating a conservatorship. Because the conservator is required by law to use the least restrictive interventions, conserved persons who can show they are able to exercise greater

decision-making should be able to have some of the conservator's authority transferred back to themselves.

### Changing Conservators

Conservators who routinely fail to consult with or respect the conserved person, or who act beyond the scope of their authority, should be removed.

When petitioning to have a conservator changed, it is important to have a written record of the reasons for the requested changes. This should be sufficient to force a change if the reasons are serious and well-documented. However, some judges may choose to change the scope of authority and then review the matter within a specified time frame. Probate Court judges have the authority to do that.

Judges will be more inclined to change a conservator when there are serious violations or when the petitioner can provide a qualified person willing to be appointed as conservator. The lack of individuals willing to serve as conservators is often a barrier to changing conservators; a request for a new conservator is more likely to be granted if there is a person willing to step in.

### How Is a Conservatorship Terminated?

A conservatorship may be terminated when the conserved person requests in writing for the Probate Court Judge to terminate the conservatorship. Following that request, the judge must begin a hearing within 30 days (which may be continued for good cause).

If a hearing is not held or begun and continued for good cause within 30 days, the conservatorship "shall terminate." (However, it will be necessary to have the Probate Court generate a document saying that.) To end a conservatorship, the conserved person is not required by the statute to provide medical evidence. S/he does need to show that the conservatorship is no longer necessary. That only needs to be shown by a preponderance of the evidence (less evidence than "clear and convincing"). However, judges will want evidence that there has been a change since the conservator was appointed. Sometimes that is shown by medical evidence. Although the standard of evidence is lower to end a conservatorship than to begin one, it is important to have strong evidence for the judge.

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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## CHANGING OR TERMINATING A CONSERVATORSHIP

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