

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, and that can sometimes interfere with the person's ability to become as independent and self-sufficient as possible. The Connecticut conservatorship statute 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 are able 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 can be 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 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.

Are There Different Types of Conservators?

YES. There are two main types of conservators as well as "special limited," "temporary" and "voluntary" conservators:

A CONSERVATOR OF THE PERSON is appointed to supervise an individual's personal affairs, such as food, clothing, shelter, personal safety, and health care. A conservator of the person can, after a special hearing, be given authority to consent to psychiatric medication for a person who is in a psychiatric hospital and unable to give informed consent to such medication.

A CONSERVATOR OF THE ESTATE is appointed to supervise the financial affairs of the individual. A person may have either or both types of conservators appointed, and the same individual may perform both functions, or they may be different people.

SPECIAL LIMITED CONSERVATORS are appointed for a limited amount of time to consent to the administration of medication for a person who is hospitalized for restoration to competency to stand trial and is found to be incapable of informed consent.

TEMPORARY CONSERVATORS, whose appointments are also time limited, may be appointed to prevent immediate and irreparable harm.

A person can ask the Probate Court to appoint a **VOLUNTARY CONSERVATOR** when he or she is not incapacitated. In that case, the court order would not state that the conserved person is "incapable." Such a conservatorship will be terminated with thirty days notice to the Probate Court. (There are less restrictive ways to obtain help managing your finances or personal needs. You should consult a lawyer to determine if there is a less restrictive way to accomplish your goals

than a voluntary conservatorship.)

Can a Person Name His Or Her Own Conservator?

YES. A person may specify the individual that he or she would want to serve as conservator if that became necessary. This can be in a written document that is witnessed and notarized (such as an advance directive) or stated before or during a Probate Court hearing. Unless there is a good reason not to do so, the judge should appoint the person who was requested. Naming a possible conservator does not give up your right to argue against a conservatorship.

Can the Conservator Consent To Psychotropic Medications?

Not without specific authority, and only in inpatient settings. A conservator of the person **cannot** have authority to authorize their use without a specific order from the Probate Court after a special hearing. The law requires a conservator with this authority to meet with the physician and the patient, review the individual's record, and consider the "pros and cons" of the medications, the individual's preferences and religious beliefs, and his or her prognosis with and without medications before making a decision whether or not to consent to such medication.

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 exceptional circumstances) without first having a hearing in probate court. A conservator cannot terminate a lease or other tenancy, sell a conserved person's house or dispose of a conserved person's household

furnishings unless a Probate Court judge finds after a hearing that such action is necessary or that the conserved person has agreed.

Can a Conservator Override the Individual's Civil Rights?

NO. The "Patients' Bill of Rights" specifies the rights of persons receiving mental health services can be restricted only if a probate court authorizes doing so. The Connecticut Supreme Court held that a conservator could not prevent an individual under the conservatorship (the "respondent") 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 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 and that **"a conserved person shall retain all rights and authority not expressly assigned to the conservator."**

In any other proceeding in which the conservator has retained counsel for the conserved person, the conserved person may request the Court of Probate to direct the conservator to substitute an attorney chosen by the conserved person. **A conserved person retains the right to release his/her medical records to legal advocates even if the conservator has authority to consent to medical treatment.**

Can a Conservator Charge For His Or Her Services?

Conservators are allowed to charge the estate a fee for services provided. However, the fee charged must be reasonable, and is limited by statute and case law in certain cases. For example,

an attorney should not charge his or her usual legal fees rate when conducting routine daily tasks such as grocery shopping. In addition, an attorney must get permission from the judge to perform and charge the respondent for legal services. If a person is indigent, the conservator should be paid for by the probate court. It may be necessary to apply for a waiver of fees to have the conservator's fees paid by probate court administration.

Are Conservators Required To Report To the Probate Court?

The conservator of the person must report at least annually on the respondent's condition by filing a report with the Probate Court. The conservator of the estate must file an accounting in Probate Court every three years, and may be required to file a periodic account annually and must file an accounting if the conserved person, or any interested party, requests it.

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
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*The information in this flyer is effective as of
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CONSERVATORSHIP BASICS

#1



CONSERVATORSHIP FLYERS

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