

Conservatorship

(Revised 08/11/23)

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Forms

The following forms are referenced in this policy:

- 07-65 Placement Information and Payment Authorization (CWS/CMS Template) (04/22)
- [JUV-57](#) Application for Approval of a Minor's Request For Voluntary Inpatient Psychiatric Treatment

Background

Conservatorship for a youth may be appropriate if they are so gravely disabled by a mental disorder that the youth cannot utilize the necessities of life (food, clothing, shelter) even when provided to the youth by others.

When a youth is gravely disabled by a mental disorder and is approaching 18 years old, conservatorship may be necessary to ensure on-going care. In rare instances, conservatorship may be established for a youth under 18 who is subject to dependency and/or juvenile justice proceedings.

There are two legal mechanisms for a dependent youth to be admitted to a Community Treatment Facility to receive mental health treatment in a locked or partially locked setting:

1. When Juvenile Court grants a youth's JUV-57 application, completed, and signed by the youth and youth's counsel; or
2. The Lanterman-Petris-Short Act (LPS) court has found the youth to be gravely disabled under Welfare and Institutions Code § 5585.25 and the conservator, having custody of the youth, consents to involuntary psychiatric treatment on the youth's behalf.

Policy

Conservatorship for a dependent youth should be exceptionally rare and utilized as a last resort after all other options have been exhausted, and there is no other legal mechanism that allows the youth to receive required mental health treatment.

Policy (cont.)

A youth needing conservatorship will normally have an extensive history of psychiatric treatment and residential placements. The youth's treating psychiatrist can initiate a referral to the Office of the Public Conservator whenever the psychiatrist finds it medically appropriate.

However a team approach to obtain and provide information relevant to a determination of grave disability to a Behavioral Health Services (BHS) supervising psychiatrist or designee, can be utilized when appropriate, such as when a youth has frequent episodes of AWOL, exhibits a pattern of complex unmet needs, and/or has been treated by a variety of mental health professionals, none of whom have a full context of the youth's behaviors and needs. In these cases, any member of the child family team may request a conservatorship team meeting.

Staff may access the [Protocol for Conservatorship of a Child](#) via the [Juvenile Court's policies, procedures, and protocols](#) website for the most current information.

**Conservatorship
Team Meeting**

A Conservatorship Team Meeting may be convened whenever a dependent youth is being considered for conservatorship in order to obtain and share a comprehensive mental health history, discuss services and interventions, and to provide any other behavioral or mental health history that could assist the treating psychiatrist, BHS supervising psychiatrist, or designee as to whether a referral to the Office of the Public Conservator is appropriate. This meeting is not required if a treating psychiatrist has already made a medical determination the youth meets conservatorship criteria and determines a referral to the Office of Conservatorship is medically necessary.

The Conservatorship Team Meeting differs from Child and Family Team Meetings (CFTM) and does not follow the same guidelines/process. However, members of the Child and Family Team (CFT) will be informed and updated as to the outcome of the Conservatorship Team Meeting and may request a CFTM to discuss additional concerns, as needed.

For a youth involved in dependency, the conservatorship team will consist of the following members:

- Assigned Social Worker (SW)
- Protective Services Supervisor (PSS)
- County Counsel
- Youth's Attorney
- Educational and/or Developmental-Services Rights Holder
- Court Appointed Special Advocate (CASA)
- Child Welfare Services (CWS) Behavioral Health Program Coordinator
- Regional CWS Staff Psychologist
- Behavioral Health Services (BHS) Supervising Psychiatrist or designee
- Tribal representative, when applicable
- Representative from the school district, when applicable (i.e., if providing placement and services)
- Representative of San Diego Regional Center, when applicable

For a youth involved in both dependency and juvenile justice, the conservatorship team will include all the members noted above AND the following additional members:

**Conservatorship
Team Meeting
(cont.)**

- Juvenile Probation Officer (PO)
- Juvenile Justice Attorney
- Prosecutor

The individuals listed below will be given notice of the team meeting and may participate in the Conservatorship Team Meeting, if appropriate and in the best interest of the youth:

- Youth
- Parent(s), legal guardian(s), de facto parent, or Indian custodian
- Attorney for parent(s), legal guardian(s), de facto parent, or Indian custodian
- Youth's treating clinician

**Establishing
Conservatorship for
Dependent Youth
Under 18 Years Old**

The Conservatorship Team Meeting may be scheduled by any team member for an initial conservatorship referral consideration, and as needed for ongoing conversations about the youth's needs, including when there is a placement transition. The member who schedules the meeting will provide notice to the rest of the team.

The table below lists the referral process to the Office of the Public Conservator.

Step	Who	Action
1	Conservatorship Team Member	<ul style="list-style-type: none">• Schedule a Conservatorship Team Meeting and invite identified team members.• Notice the following:<ul style="list-style-type: none">○ Team members, as applicable○ Youth○ Parent, legal guardian, de facto parent, or Indian custodian○ Attorney for parent(s), legal guardian(s), de facto parent, or Indian custodian○ Youth's treating clinician• Convene the Conservatorship Team Meeting
2	Youth's Treating Psychiatrist or BHS Supervising Psychiatrist (or designee)	<p>If, after the conservatorship team meeting, the treating psychiatrist, BHS supervising psychiatrist, or designee, determines that a referral to the Office of the Public Conservator is appropriate:</p> <ul style="list-style-type: none">• Complete formal referral to the Office of the Public Conservator
3	Office of Public Conservator	<ul style="list-style-type: none">• Determine if conservatorship is appropriate.• If conservatorship is appropriate, file a petition in mental health court.• Notify SW/PO of date petition is filed and date of permanent conservatorship hearing, and other mental health court hearings.

**Establishing
Conservatorship for
Dependent Youth
Under 18 Years Old
(cont.)**

Step	Who	Action
4	SW	<ul style="list-style-type: none"> Once conservator is appointed for the youth: <ul style="list-style-type: none"> File an Ex-Parte to notice Juvenile Court and all parties on the case of the date the LPS court found the youth gravely disabled pursuant to WIC 5585.25 and ordered the youth conserved. Provide the conservator's name and contact information. Facilitate placement, transportation, placement transitions, and coordinate case management duties with the CFT, Regional Center, Public Conservator, etc. Ensure that conservator and conservatorship case manager are noticed of all upcoming Juvenile Court hearings. Refer to SW Responsibilities below for additional information. If the youth is not conserved, make other referrals as appropriate (a consult with the CWS Staff Psychologist is recommended)
5	Juvenile Court	<ul style="list-style-type: none"> Hold all statutory hearings, schedule hearings as needed to receive informational updates on the youth, parental progress in reunification services (if applicable), and to monitor the status of the conservatorship

**Lanterman Petris
Short (LPS)
Conservatorship**

If the Public Conservator Investigator determines there is sufficient cause to file a petition for Lanterman Petris Short (LPS) Conservatorship, once the petition is received by the Mental Health Court, the youth is immediately under a Temporary Conservatorship, which expires within 30 days. Prior to the expiration, a Permanent Conservatorship hearing will be set with the Mental Health Court (Central Division, San Diego Superior Court). A Public Defender will be assigned to represent the youth in the LPS Conservatorship hearing and will contact the youth prior to the Permanent Conservatorship hearing.

Should the Public Defender and youth decide to contest the conservatorship proceedings, the referring psychiatrist or psychologist will be required to testify in the Mental Health Court trial proceedings as to the initial determination of grave disability and/or the required level of care. The trial may reasonably be expected to occur on the afternoon of the set date for the Permanent Conservatorship hearing, though for special circumstances, may be set out a few business days from that date. The parent can talk to their attorney, the treating psychiatrist, or the Conservator Investigator regarding concerns on a referral made to the Office of Conservator.

**Lanterman Petris
Short (LPS)
Conservatorship
(cont.)**

A Public Conservator representative, in addition to the conservatorship case manager assigned to the youth, shall receive notice of any Juvenile Court hearings. Relevant input from the conservatorship case manager should be incorporated into reports and recommendations submitted by the SW and/or PO. The court reports should include the status and updates of the LPS Conservatorship.

**Juvenile Court
Proceedings During
LPS Conservatorship**

Juvenile Court will retain concurrent jurisdiction of the dependent youth during the conservatorship proceedings. Once the LPS Court appoints a conservator for the youth, the conservator is charged with deciding placement as well as care and treatment needs, including authorizing the administration of psychotropic medications.

NOTE: Court proceedings for a juvenile justice involved youth can be suspended during LPS conservatorship if the conservator deems that the proceedings will have a negative impact on the youth's well-being. The conservator may recommend the juvenile justice court suspend the juvenile justice proceedings.

Juvenile Justice Court proceedings, if suspended upon the recommendation of the conservator, are immediately reinstated upon termination of the LPS Conservatorship, provided the youth is still reasonably subject to Juvenile Court authority/jurisdiction.

**Social Worker (SW)
Responsibilities**

When a conservatorship is established in an open Juvenile Dependency case, the conservator makes the decisions regarding placement and treatment, including whether forced medication is necessary. The educational rights holder maintains educational rights and should coordinate with the conservator to ensure any educational decisions support mental health treatment.

The SW continues case management duties to include but not limited to the following:

- Ensure placement funding continues via the 07-65.
- Complete monthly face to face visits with the youth.
- Coordinate check in with conservator prior to monthly face to face visits to ensure there is no concern with visitation.
- Ensure members of the CFT are kept informed and updated regarding the conservatorship process.
- Arrange sibling/parent visitation.
- Update the Child and Adolescent Needs & Strengths (CANS).
- Update the Case Plan.
- Continue to provide reunification services to the parent unless reunification services are terminated.
- Notice the conservator and the conservatorship case manager of all future Juvenile Court hearings regarding the youth.
- Submit dependency court reports as requested by the Juvenile Court Judge.
- Include information in court reports about the medication regimen authorized by the conservator including the name of the medication, dose, and frequency.

Note: it is not necessary to submit a JV-220 application for a conserved youth as the LPS conservator has been appointed to make mental health treatment and placement decisions for the youth.

Information Sharing

Notwithstanding the confidential nature of Juvenile Court proceedings, information from the case may be shared with the Office of the Public Conservator and with any member of the youth's mental health team. This communication may include the exchange of relevant documents, including but not limited to court orders and reports, school records, medical records, and mental health records. The information must be kept in a confidential manner by the person who receives it, unless otherwise authorized by law or ordered by the court (Welfare and Institutions Code section 827(a)(1)(K) and San Diego County Superior Court Rules 6.6.4 and 6.9.19).

Notice of Court Hearings

Once permanent conservatorship is established, the conservatorship case manager, SW and/or PO for the youth will be noticed of all future Mental Health Court hearings, as well as the youth and all others legally entitled to notice.

Notice of Juvenile Court hearings to the conservator and conservatorship case manager shall be given by the SW/PO by mail to the:

Office of the Public Conservator
5560 Overland Avenue, Suite 130
San Diego, CA 92123

Conservatorship Considerations for Nonminor Dependents (NMD)

When an NMD is being considered for conservatorship, SWs are to consult with the CWS Manager, the Behavioral Health Program Coordinator, and the Regional CWS Staff Psychologist on next steps.

While the process and procedures outlined in this policy are specific to youth under age 18, it is also best practice to convene a Conservatorship Team Meeting for the NMD to provide additional guidance as to whether a referral to the Office of the Public Conservator is appropriate.

For NMDs who are conserved, SWs are encouraged to consult with County Counsel (CC) on issues related to confidentiality.

If a youth is approaching 18 years old or is an NMD who does not qualify for conservatorship, there are some alternatives available.

Transitional living services are available for a limited number of clients who meet specific diagnostic criteria through County Mental Health (CMH) via [Housing Matters](#). Supportive housing is a community-based service model that provides housing and integrates mental health services, primary health care, alcohol and drug services, case management and social services to help homeless people living with mental illness gain stability and live more productive lives.

If the NMD is going to live independently, a referral for [Aging and Independence Services](#) (AIS) may be appropriate. In certain cases, AIS can arrange case management services for adults who are dependent due to a physical or mental disability.

**Conservatorship
Considerations for
Nonminor
Dependents (NMD)
(cont.)**

If there are any concerns regarding the possibility of abuse for any adult, contact [Adult Protective Services](#). Types of adult abuse include Physical, Abandonment, Isolation, Financial, Neglect, Self-Neglect, and Mental Suffering.

Alignment with SET

This policy supports SET [Value 1](#) by building shared understanding and agreement through family engagement, collaborating with the entire family to create well-being, and honoring and incorporating the voices of children and youth, and SET [Value 3](#) by having a continual focus on children and youth well-being while they are in the care of CWS.
