

## **SERVING CONSERVATEES IN A FULL SERVICE PARTNERSHIP (FSP)** **FREQUENTLY ASKED QUESTIONS**

### ***What is the difference between a private conservator and a Public Guardian?***

A private conservator is a family member, friend or private individual who serves someone placed on an Lanterman-Petris-Short (LPS) or probate conservatorship. A Public Guardian (PG) is an employee of the Office of the Public Guardian (OPG) who serves someone on LPS or probate conservatorship in circumstances where a private individual or family member is not available to do so.

### ***What is the difference between a LPS conservatorship and a probate conservatorship?***

LPS conservatorships are utilized for individuals with grave disability due to a mental disorder. Probate conservatorships are utilized for individuals with cognitive impairment resulting in loss of competency. The vast majority of conserved clients served by an FSP team will have an LPS conservatorship, not a probate conservatorship.

### ***Is an LPS conservatorship appropriate for clients with both severe mental illness and dementia or cognitive impairment?***

Sometimes individuals on LPS conservatorship may develop a cognitive impairment resulting in significant limitations in decision-making. An FSP provider can make the PG aware of concern for or diagnosis of dementia/ cognitive impairment. OPG has an internal process for initiating a referral for probate conservatorship. Once an investigation is completed, a petition for probate conservatorship may be filed with the court. If a private conservator wants to initiate a petition for a probate conservatorship, he or she can contact OPG with a request for a probate conservatorship investigation either over the phone or by submitting a written referral form to OPG. Bet Tzedek ([www.bettzedek.org](http://www.bettzedek.org)) also provides free Self-Help Conservatorship Clinic classes on how to file for probate conservatorship.

### ***As an FSP provider, can I refer someone directly to the OPG?***

No. (It's possible in the future this may change.) Currently a client can only be referred for conservatorship through a designated hospital during an involuntary hospitalization.

### ***Does a LPS conserved client (i.e., a "conservatee") need to agree to receive services in order to be enrolled in a FSP?***

No, as long as enrollment is recommended by the conservator, PG, or a service provider (e.g., treatment team, CRM, discharge planners, etc.). If FSP services are considered part of the conservatee's recommended treatment, enrollment does not require the client's consent. Similarly, conserved individuals do not consent themselves for medications, research enrollment, or medical procedures (see below). The conservator or PG provides the means of consent on behalf of the client.

***What are some tips for developing a therapeutic alliance and building rapport with a conservatee who states that they do not want FSP services?***

Motivational Interviewing and cognitive behavioral techniques can be useful. Befriending, in which you chat casually about neutral but engaging topics without using active clinical techniques, can help you become better acquainted with the client, build rapport, and shift away from topics that provoke agitation. Consider taking the client for coffee, go for a walk, or offering to return another day. Clients who don't want FSP services may be pre-contemplative or contemplative about change or need for help. Motivational Interviewing would entail a nonconfrontational and exploratory approach. You could ask your client about his or her hopes, dreams, and goals ("what would your life be like if it could be exactly how you want it to be?"). Establish shared goals and offer to help with goals the client is motivated to pursue. Explore how your services might support these. You may explore pros and cons when trying to help clients evaluate what decision they want to make. Communicate clearly where decisions belong to the client, despite the conservatorship; and emphasize how much the client still can control. Avoid clinical jargon and use the client's descriptions of his or her life -- without endorsing or colluding with non-reality-based ideas.

Engagement with conserved clients may require a slower pace. It will require that the clinician show genuine interest in understanding how the client sees and experiences his or her life. While it might seem counter-intuitive, a nondirective approach often leads to progress. Joint client visits by the PG and an FSP staff member can improve the engagement process.

***What role does the conservator or Public Guardian usually play in a client's care?***

Among other tasks, a conservator or PG manages a client's funds and ensures the appropriateness of his or her housing placement.

For instance, your client's conservator or PG will usually pay rent and provide incidental spending money for your client. The conservator or PG will need to be notified if the client requires additional one-time funds, such as to purchase clothing or personal items. The conservator or PG will also need to approve travel plans.

In addition, the conservator or PG has the responsibility to see that a conserved client is safely housed. If a client's housing is in jeopardy, if he or she is at risk of AWOL, or if a client has left a housing placement without warning, the conservator or PG should be notified. The PG or conservator should also be engaged immediately if the client's housing needs are not being met or if the client wishes to move. The clinical team and the conservator or PG should establish a coordinated plan for maintaining safe housing. Some housing options, like hotels, are not acceptable to the OPG and other solutions will usually need to be identified.

It follows from these roles that developing a collaborative relationship with your client's conservator or PG will help you to serve your client well.

### ***How can I collaborate with the OPG when working with a conserved client?***

The main number at OPG is 213-974-0515.

As soon as you receive a referral for a conserved client, prepare to establish a collaborative relationship with the client's PG. Record in the chart the name and contact information (phone, email) of your client's conservator or PG. Call the PG assigned and introduce yourself, providing your contact information. Ask for copies of the conservatorship papers so you are aware of what powers have been granted and can present these papers to other care providers if needed. Ask the PG if he or she would like to meet the client together with you. Inquire about any concerns the PG has about the client's symptoms, his or her housing, or his or her funds.

Try to take a warm, collaborative approach with the PG to establish a good working relationship. PGs are often busy with large caseloads and may focus on their legal/ mandated responsibilities, perhaps seeming removed or perhaps authoritative. Remember that PGs and conservators are not clinicians; they may benefit from hearing how you think about the client's symptoms and about clinical strategies you have found successful in working with the client. Try to openly explain your clinical concerns and how you'd like the PG's help with them. Allow the PG to see that your collaboration will be helpful to them. Find out when the conservatorship expires, so you can be prepared to help submit a Physician's Declaration signed by the psychiatrist well before the hearing date. Communicate with the PG regarding any invasive medical procedures that may require court approval.

If you find that you cannot reach your client's PG, do not receive needed information, or cannot obtain funds for your client in a timely way, it is appropriate to contact the PG 's supervisor or a manager at the OPG (for instance, by calling the main number and asking to speak with the supervisor of your client's PG or a manager). As the client's primary clinician, you are entitled to regular communication with the client's PG, and OPG supervisors can often be helpful in ensuring you work smoothly with OPG.

### ***Under what circumstances might it be helpful for me as an FSP provider to request to meet with the client together with the conservator or Public Guardian?***

A joint meeting in the field might help when the client refuses FSP services, refuses medical or mental health treatment, has concerns about funds, or requests housing placement that would not be safe. A joint meeting may help resolve client concerns and help the client better understand recommended treatment.

While it can sometimes be beneficial to present a "united front" for a client, it can also be useful to distinguish your role from that of the conservator or PG. For instance, if a client is requesting a move that would not be safe, it may be beneficial for the FSP clinician to avoid involvement in the conservator or PG's refusal. That way, the FSP clinician can continue to validate the client's preferences and frustrations, and can rest responsibility for the refusal with the PG. In other words, it is not always essential that the clinician and conservator or PG always present themselves to the client as a united team.

***Can a client's conservator or Public Guardian place him or her in a psychiatric hospital when needed?***

While LPS-conserved clients can technically be psychiatrically hospitalized by a conservator or PG, in practice it is often not possible for the conservator or PG to accomplish this without the help of a clinician who can place the patient on a hold and identify a hospital that will accept the client for admission. Generally speaking, the process of hospitalizing a conserved client looks very similar to that of a non-conserved client and in both instances involves the hospital following internal protocols to determine whether the client meets criteria for hospitalization. However, the admitting hospital will often request the client's conservatorship paperwork in order to accurately record the client's status once on the unit. Occasionally, presenting such paperwork in the emergency room can facilitate admission.

***What happens when a conserved client refuses medical treatment for a health condition?***

An LPS conservator must go to court to seek specific approval for minor invasive procedures, such as dental work, that are not deemed to be routine. In these circumstances, two 7-point letters must be completed; the first is from the treating doctor and/or dentist recommending the procedure and the second is a declaration from the psychiatrist. The conservator or PG can help you understand what these letters should include. Once the forms are completed, they should be returned to the PG who may need to file a petition for court authority to consent to the procedure.

Even in cases where a court mandates a procedure, the conservatee may still refuse to cooperate with the treatment. Many medical providers are unwilling to restrain or otherwise force the treatment. In each case of a client refusing care, clinical skills of engagement around client's preferences, nonthreatening exploration of the client's beliefs, and enhancement of the client's motivation to remain healthy should be used. Communicating regularly with medical providers and meeting together with them and the client can help to identify strategies that provide a compromise solution in which both client safety *and* client preference can be preserved.

The FSP psychiatrist will play an active role in situations like these, with tasks such as assessing client decision-making capacity, determining the risk/benefit of proposed treatments, and communicating with other physicians. In some situations, refusal of medical treatment may reflect an underlying cognitive impairment which could necessitate probate conservatorship (see below). Each circumstance will have unique challenges.

***What happens when a conserved client refuses psychotropic medications?***

Conserved clients' treatment is court-mandated. This means that clients are required by the court to accept recommended treatment, including psychotropic medications. It is important to consult with the client's conservator or PG in circumstances where the client is refusing recommended treatment to address individual cases in which a client refuses medication.

***Can FSP teams facilitate placement of conserved clients into residential substance abuse treatment programs?***

FSP providers can place clients in new residential or treatment settings only in collaboration with and with the approval of the PG or conservator.

***Can conserved clients request a change in FSP program/provider?***

A conserved clients' PG or conservator must approve their treatment plan and should be notified if the client has requested a change.

***Is it ever appropriate to terminate services for a conserved client?***

Generally, until the client is no longer conserved, mental health treatment services should not be terminated. Consultation with the client's PG or conservator should be sought to address individual client circumstances.

***Who is responsible for transporting conserved clients to court?***

The PG provides transportation to court for reappointment hearings. A transportation service will pick the client up on the day of the proceeding. Teams can contact the court or the OPG to confirm that the client will receive transportation. For an initial conservatorship appointment hearing, the referring party (i.e., hospital) is responsible for transporting the client to court. Private conservators are responsible for providing transportation to court themselves and may request assistance from facility staff if their loved one is residing in a locked facility.

***How do I handle situations where a conservator is either not responsive, unavailable, or is involved in ways that undermine the client's progress?***

When dealing with private conservators or family members who are not carrying out their duties, FSP providers may want to consider having the psychiatrist and/or treatment team complete a letter addressed to the Mental Health Court requesting a successor conservator investigation. The letter should provide a list of concerns about the current conservator. Examples might include conservators who are absent/ unavailable, making inappropriate decisions regarding conservatee's mental health treatment, or refusing to take any action. The LPS court case number should be referenced and the letter should be addressed to the presiding Judge (currently Judge Groman): Attn: Honorable Judge Groman, Metropolitan Courthouse, 1945 S. Hill St., Department 95A, Los Angeles, Ca 90007. (Please keep in mind the Mental Health Court may be moving to a different location, so FSP providers should check with PG to ensure they have the correct mailing address.) The court will then send OPG a successor conservator investigation referral, which will launch an investigation and possible appointment of a successor conservator.

***What do I do to be sure my client can continue to have a conservator?***

Probate conservatorships do not expire and do not require renewal. LPS conservatorships last for one year. If an LPS conservatorship is not renewed after one year, it will expire (i.e., "lapse" or "terminate"). In some cases, the client is appropriately removed from conservatorship after one year. It is good clinical practice to discuss team views about the need to renew conservatorship and a client's potential readiness to come off conservatorship. While the OPG has sole legal authority to complete a conservatorship renewal investigation and submit its recommendations



to the court, FSP team members should be communicating with the OPG and conveying their professional opinion about whether conservatorship renewal is warranted.

Typically, weeks before the date of expiry, the OPG will forward to the client and/or conservator information about the conservatorship renewal hearing and a Physician Declaration (PD) form. The client will likely be interviewed by the Public Defender before this date and may come to court for the hearing.

If your client is still benefiting from having a conservator and continues to be (in your clinical judgment) gravely disabled due to a mental disorder, your team must aim to communicate its opinion that the conservatorship should be renewed. It is the FSP team's responsibility to see that this judgment is forwarded to the court. The FSP psychiatrist should complete the PD and have a second, LPS-designated clinician sign the PD. Then, the FSP team should discuss with the client whether he or she would like to continue to be conserved. If the client is in agreement with the decision to renew, the team will likely only need to submit the PD to the conservator or PG. Keep in touch with the conservator or PG during this period to see that all parties have the same understanding of the situation.

If the client disagrees with the assessment that conservatorship should be renewed, he or she may "contest" this assessment at the court hearing. In this circumstance, the testimony of the psychiatrist who completed the PD (or, occasionally, a knowledgeable LPS-designated clinician) will be needed during the hearing. That clinician will need to make the case to the judge that LPS conservatorship needs to continue. Sometimes clinical records will also be requested by the court. It is an expectation of DMH leadership that psychiatrists will take the time to go to court to testify for continuation of conservatorship for clients who warrant it and benefit from it. But beyond that, re-establishing conservatorship is very difficult, extremely costly, and often traumatizing for clients. Taking the time to go to court to continue a conservatorship that is needed is the right thing to do for clients and for our system.

In certain circumstances, the client may have ambivalent feelings about continuing the conservatorship. He or she may say on one day that the plan is not to contest the conservatorship but on the next day that it should be stopped. If the clinical teams feels strongly that the client continues to be gravely disabled and should continue on conservatorship, the psychiatrist should go to court prepared to testify. In the best case, the client will tell the judge at the hearing that he or she will not contest and no testimony will be needed. But if it is possible that the client will contest, the psychiatrist needs to be present to prevent the court from discontinuing the conservatorship due to the lack of testimony to counter the client's contestation.

Conservatorship hearings are scheduled by the court without consultation with the psychiatrist. If a psychiatrist's schedule does not permit him or her to be at court on the date of the client's hearing in which testimony might be needed, notify the PG or Public Defender and ask that the hearing be rescheduled. The court routinely re-schedules conservatorship hearings to accommodate the needs of psychiatrists, clients, family members, and others.