

Overview of Mental Health Conservatorship

Prepared by San Francisco Department of Aging & Adult Services

SUMMARY

Mental health conservatorship is a legal procedure through which the Superior Court appoints a conservator to authorize psychiatric treatment of a person who meets a narrow legal definition of grave disability by reason of a mental illness. This procedure is established in the California Welfare and Institutions Code (WIC). It is also sometimes referred to as a Lanterman-Petris-Short conservatorship or “LPS,” named after the state Assemblyman and Senators who wrote the legislation. The law went into full effect in 1972.

The conservatorship process is a close collaboration of several public agencies. The Office of the Public Conservator is located within the Department of Aging and Adult Services (DAAS). The program works closely with the Superior Court and the Department of Public Health to authorize, carry out and oversee treatment for individuals under conservatorship. The program supports overall health and well-being through case management and service coordination.¹

The definition of “grave disability” that governs existing mental health conservatorship does not account for the effects of psychoactive substances other than alcohol. This is insufficient in today’s San Francisco, in which many Psychiatric Emergency encounters involve methamphetamine use; individuals end up cycling in and out of crisis because they are released upon clearance of the substance, usually back into a triggering environment where the substance use starts again and leads to behaviors that put them or others in danger. SB 1045 seeks to fill this gap by providing an avenue to support these individuals to achieve stability and transition into permanent supportive housing.

KEY STATISTICS – CURRENT STATE

- The Public Conservator manages about 600 active cases per month and serves about 650 individuals per year.
- In accordance with the law, the Public Conservator strives to serve individuals in the least restrictive setting possible. More than one in three individuals under conservatorship are supported to live safely in the community in an unlocked setting, such as a skilled nursing facility, a board and care home, or at home with family.
- In a typical year, the Public Conservator receives about 150 new referrals from mental health professionals and police.
- About one in three referred individuals are homeless at the time of referral.
- Almost all referrals (90%) result in a conservatorship appointment. There are rare cases in which a referral does not result in conservatorship; typically, the individual recovers shortly after the referral is made, and the hospital determines the person is appropriate for discharge.
- Each year, between 50 and 75 individuals are deemed no longer gravely disabled and are released from conservatorship. The San Francisco Department of Public Health’s Transitions division works with these individuals to find appropriate, cost-effective settings where they can safely live as independently as possible.

CURRENT PROCESS (LPS CONSERVATORSHIP)

PSYCHIATRIC HOLD AND REFERRAL TO CONSERVATORSHIP

LPS conservatorships start with a 72-hour psychiatric hold (also known as a WIC 5150 hold). If patients continue to be considered gravely disabled and need additional intensive treatment, a psychiatric clinician may file for a 14-day hold (WIC 5250 hold) and subsequently, an additional 30-day hold (WIC 5270 hold).

Under these WIC provisions, a patient can be held for a maximum of 47 days without conservatorship. After the first three days, the patient has the right to a hearing and representation by the Public Defender.

¹ Also within DAAS is the Office of the Public Guardian, a separate program that operates under court oversight and regulations that are laid out in California’s Probate Code. The Public Guardian provides care for those with long term cognitive impairment, typically due to dementia or traumatic brain injury.

Only psychiatric hospitals (including jail psych) may make referrals for conservatorship. Clinicians have discretion about when to refer; the treating psychiatrist may choose not to refer if they believe a patient will recover before the hold expires. However, the Public Conservator encourages hospitals to make appropriate referrals as early as possible. If a person reaches the 47-day limit for a hospital hold, they must be released unless conservatorship is in place.

INVESTIGATION, HEARING, AND APPOINTMENT

Upon receiving a referral, the Public Conservator will determine if the referral is appropriate² and petition the Superior Court (“Court”) to grant a temporary conservatorship. This ensures the person continues to receive care during the course of the judicial process. Once granted, the Public Conservator completes the investigation, including consultation with the psychiatric care team, and works with the City Attorney to file a petition with the Court for continued conservatorship as appropriate. If the temporary conservatorship expires before the petition is ready, the Court may agree to grant a 30-day extension.

Proposed conservatees are appointed a representative from the Public Defender’s office. If the Court determines the person to be gravely disabled due to mental illness and unable or unwilling to accept voluntary treatment, they are placed under conservatorship for up to one year (often referred to as a “permanent” conservatorship). The Court considers a person “gravely disabled” if they are unable to provide for the basic needs of food, clothing, and shelter. The person has a right to appeal their conservatorship and request a jury trial.

TREATMENT AND RECOVERY

The Public Conservator works with the Department of Public Health (DPH) to place the individual in treatment, which often includes finding an appropriate residential facility based on the person’s needs. The Public Conservator oversees treatment and serves as an advocate to ensure that treatment is not unnecessarily restrictive and to prevent abuse or neglect.

Alongside DPH clinicians and case managers, the Public Conservator serves as part of the care team and coordinates other supportive services. Staff utilize a strength-based and client-centered approach that is rooted in principles of trauma-informed care to support individuals on their unique path to recovery and wellness. Part of this role is to continually assess appropriateness for conservatorship. The Public Conservator also provides regular reports to the Court and may petition the Court for other authorities, such as psychotropic medication authorities, if appropriate.

Individuals are released from conservatorship when a psychiatrist determines the person is no longer gravely disabled. The treatment team, the Public Conservator, and the Department of Public Health work closely with individuals transitioning off of a conservatorship to support continued recovery. They establish links to ongoing behavioral health services and identify appropriate, cost-effective settings where the person can safely live as independently as possible.

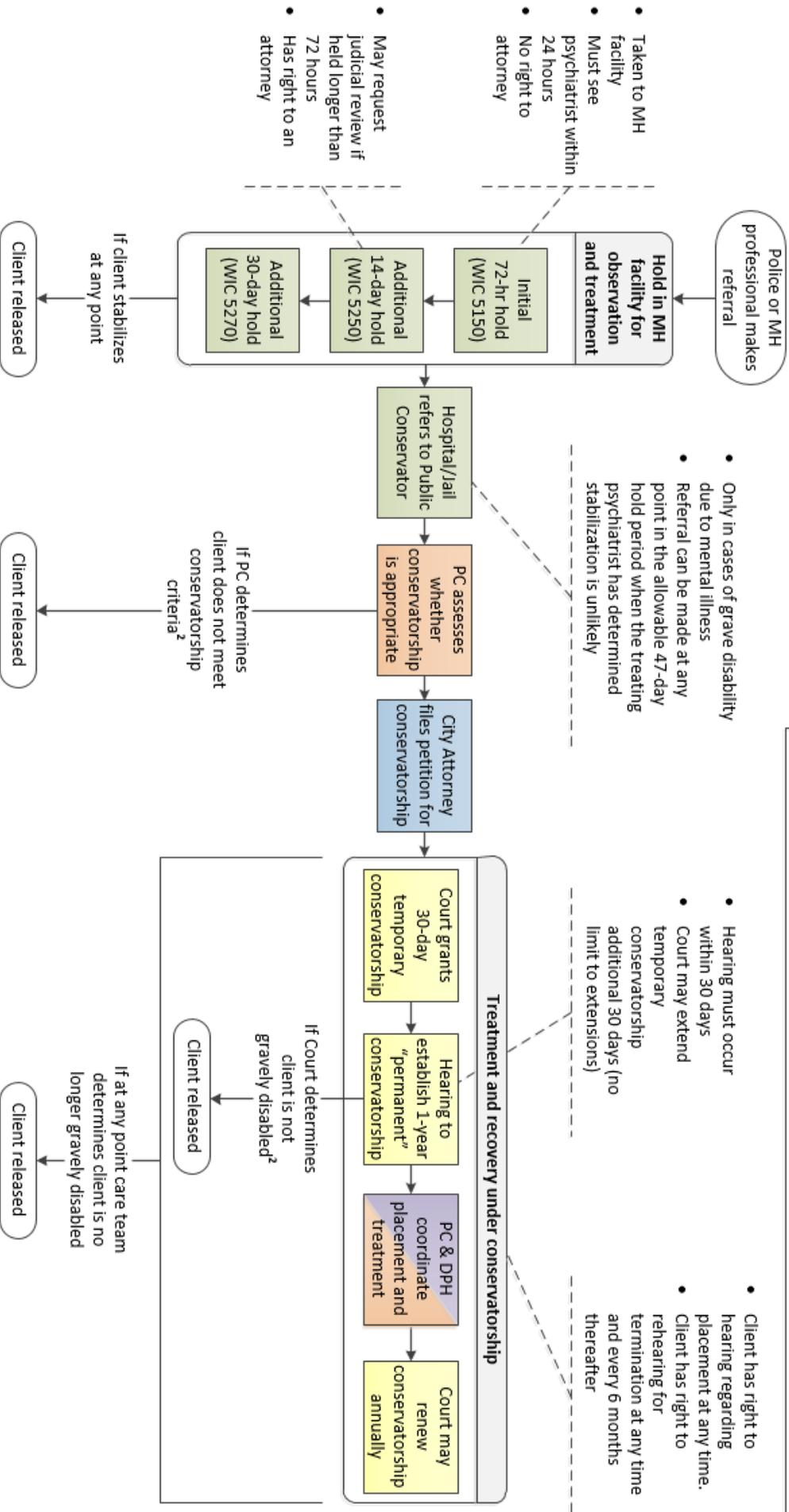
If the person remains gravely disabled after one year, the Public Conservator petitions the Court to extend the conservatorship for another year. There is no limit on extensions.

² Prior to filing a conservatorship petition, the PC will ensure the client is a county resident and remains on an involuntary hospital hold.

San Francisco Conservatorship Process – Current State

High-level process for mental health conservatorship under the Lanterman-Petris-Short Act

Diagram by the San Francisco Department of Aging & Adult Services



¹ Includes hospital and jail facilities.

² Before petitioning for conservatorship, the PC will ensure the client is a county resident and remains on an involuntary hospital hold. During the conservatorship hearing, the Court will determine if the client’s condition meets the standard of “grave disability,” meaning he or she is unable to provide for the basic needs of food, clothing, and shelter.