FAMILY GUIDE

Lanterman-Petris-Short Act Guidelines & FAQs

LOS ANGELES COUNTY DEPARTMENT OF Mental Health hope. recovery. well-being.

NAMI Los Angeles County Council National Alliance on Mental Illness
Special thanks to the following contributors…

Roderick Shaner, MD
Medical Director, Office of Medical Director

Connie Draxler
Deputy Director, Office of Public Guardian

Brittney Weissman
Executive Director, NAMI – Los Angeles County Council

Gail Evanguelidi, NAMI – Westside Los Angeles

Helena Ditko, LCSW
Program Director, Office of Constituent Advocacy

Jerry Sefiane, MA
Health Program Analyst II, Office of Constituent Advocacy

GoToMyVA  Virtual Project Manager (VPM) | Exec Virtual Assistant (EVA)
Certified CRM Consultant

gotomyva@gmail.com  |  https://www.linkedin.com/in/gotomyva/
# Table of Contents

**Introduction**

Section 1: What is the Lanterman-Petris-Short Act? ........................................ 1  
Section 2: What is a Lanterman-Petris-Short Act Hold? ................................... 2

**What factors are considered when someone is held involuntarily?**

Part I........................................................................................................ 3  
Part II......................................................................................................... 4  
Part III...................................................................................................... 5

**What are the Different Hearings Held Under the Lanterman-Petris-Short Act?**

Part I........................................................................................................ 6  
Part II......................................................................................................... 7  
Part III...................................................................................................... 8

**Q & A - WIC 5150s and 5185s in Hospital Emergency Rooms**

Part I........................................................................................................ 9  
Part II......................................................................................................... 10  
Part III...................................................................................................... 11

**Q & A – General LPS FAQs for Families**

Part I........................................................................................................ 12  
Part II......................................................................................................... 13  
Part III...................................................................................................... 14  
Part IV...................................................................................................... 15  
Part V......................................................................................................... 16  
Part VI...................................................................................................... 17  
Part VII................................................................................................... 18

**Private or Public Guardian Conservatorship Under LPS**

Part I........................................................................................................ 19  
Part II......................................................................................................... 20  
Part III...................................................................................................... 21  
Part IV...................................................................................................... 22

**Alternatives to LPS Conservatorship**

Part I........................................................................................................ 23  
Part II......................................................................................................... 24  
Part III...................................................................................................... 25

**Department Heads**................................................................................. 26
The Lanterman-Petris-Short (LPS) Act provides guidelines for handling involuntary civil commitment of individuals to mental health institutions in the State of California. It was co-authored by California State Assemblyman Frank Lanterman, California State Senators Nicholas C. Petris and Alan Short, signed into law in 1967 by Governor Ronald Reagan, and went into full effect on July 1, 1972. The act set the precedent for modern mental health commitment procedures in the United States.

The legislative intent of the 1967 Lanterman-Petris-Short Act is to:

- End the inappropriate, indefinite, and involuntary commitment of persons with mental health disorders, developmental disabilities, and chronic alcoholism, and to eliminate legal disabilities
- Provide prompt evaluation and treatment of persons with mental health disorders or impaired by chronic alcoholism
- Guarantee and protect public safety
- Safeguard individual rights through judicial review
- Provide individualized treatment, supervision, and placement services by a conservatorship program for persons who are gravely disabled
- Encourage the full use of all existing agencies, professional personnel and public funds to accomplish these objectives and to prevent duplication of services and unnecessary expenditures
- Protect persons with mental health disorders and developmental disabilities from criminal acts

The Lanterman-Petris-Short (LPS) Act is part of the California Welfare and Institutions Code (WIC). It is covered under WIC Division 5, starting with Section 5000 and subsequent chapters and articles.
### Introduction

**What is a Lanterman-Petris-Short Act Hold?**

An LPS Hold is any of the holds defined in the Welfare and Institutions Code sections under Division 5 starting with Section 5000. An LPS Hold is also known as a mental health hold or psychiatric hold.

The LPS Holds Chart shows what criteria needs to be met and outlines the court proceedings for each type of hold.

<table>
<thead>
<tr>
<th>Type</th>
<th>WIC Section</th>
<th>Length</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Detention of Mentally Disordered Persons for Evaluation and Treatment</td>
<td>5150</td>
<td>72 hours</td>
<td>Allows hold for a period of 72 hours for persons alleged to meet the legal criteria of being a danger to self or others or gravely disabled due to a mental disorder</td>
</tr>
<tr>
<td>Certification for Intensive Treatment</td>
<td>5250</td>
<td>14 days</td>
<td>Allows hold for a period of 14 days for persons alleged to meet the legal criteria of being a danger to self or others or gravely disabled due to a mental disorder</td>
</tr>
<tr>
<td>Additional Intensive Treatment of Suicidal Person</td>
<td>5260</td>
<td>14 days</td>
<td>Certifies hold for an additional period of 14 days beyond WIC 5250 (the first 14 days) for persons who are allegedly imminently suicidal due to a mental disorder</td>
</tr>
<tr>
<td>Additional Intensive Treatment</td>
<td>5270.15</td>
<td>30 days</td>
<td>Allows hold for an additional period of 30 days beyond WIC 5250 (the first 14 days) for persons who were gravely disabled on the first 14 day hold and allegedly remain gravely disabled due to a mental disorder</td>
</tr>
<tr>
<td>Post Certification Procedures for Imminently Dangerous Persons</td>
<td>5300</td>
<td>180 days</td>
<td>Certifies hold for a period of 180 days beyond WIC 5250, the first 14 day hold, for persons who allegedly have made a serious threat of substantial physical harm or attempted or inflicted physical harm on another due to a mental disorder</td>
</tr>
</tbody>
</table>

When law was enacted it was intended to reduce the number of persons referred for conservatorship. It should be noted that this code section is not used in all counties throughout California.

*Source: 2014 Superior Court of California, County of Los Angeles*
What factors are considered when someone is held involuntarily?

The basis for holding a person in a Designated Psychiatric Treatment Facility is not a medical model. It is a legal model. The law and the Courts have consistently held that personal freedom is the most important right we possess.

The Court is looking at behaviors that lead you to believe that a person is a Danger to Self, Danger to Others, and/or Gravely Disabled due to a mental disorder. Simply stating the diagnosis without behaviors does not meet the criteria. Simply believing the person is very sick and in need of psychiatric treatment does not meet the criteria. The burden of proof is on the Treatment Facility to show that the person meets the legal criteria to be held involuntarily. The following symptoms and behaviors should be assessed and the information should be presented by the Treatment Facility representative in all hearings.

Behavior Type  
Auditory Hallucinations

Definition:
The false perception of sound, music, noises, or voices. Hearing voices when there is no auditory stimulus is the most common type of auditory hallucination in mental disorders. In schizophrenia, a common symptom is to hear voices conversing and/or commenting.


The most common type of auditory hallucinations in psychiatric illness consists of voices. Voices may be male or female, and with intonations and accents that typically differ from those of the patient. Persons who have auditory hallucinations usually hear more than one voice, and these are sometimes recognized as belonging to someone who is familiar (such as a neighbor, family member, or TV personality) or to an imaginary character (God, the devil, an angel). Verbal hallucinations may comprise full sentences, but single words are more often reported.

What factors are considered when someone is held involuntarily? Part II

Auditory Hallucinations Continued...

**Behavior Variables**

• Is the person telling you they are having auditory hallucinations or does the person appear to be responding to internal stimuli?
• When asked if the person is having auditory hallucinations, does the person answer?
• If the person answers...
  • Are the auditory hallucinations sounds or words?
    • If they are words...
      • Is it someone they know?
      • Are the words saying good things or bad?
      • Are they commanding the person?
      • Are they telling the person to hurt self or others?
      • Are they telling the person to not eat or to not take medications?
• Has the person heard the voices in the past?
  • If so...
    • Did the person act on the voices or did the voices cause the person to do anything?
    • If they do not answer, describe any behaviors that seem to indicate that the person is responding to internal stimuli.
• Do the auditory hallucinations help you establish that the person meets the legal criteria of being a Danger To Self, Danger To Others, and/or Gravely Disabled? If so, how?

---

**Behavior Type**

**Delusional Disorder**

*Definition:*

Delusional disorder refers to a condition associated with one or more nonbizarre delusions of thinking—such as expressing beliefs that occur in real life such as being poisoned, being stalked, being loved or deceived, or having an illness, provided no other symptoms of schizophrenia are exhibited.


**Behavior Variables**

• What type of delusion is the person having?
• How do you know that it is a delusion?
• Is the delusion such that it would lead the person to cause harm to self or others?
• Has the person had the delusion in the past and has it caused the person to do anything?
• Does the delusion prevent the person from providing for food, clothing and/or shelter? If so, how?

Source: 2014 Superior Court of California, County of Los Angeles
What factors are considered when someone is held involuntarily?

Part III

**Behavior Type**

**Thought Disorders**

*Definition:*

Thought disorder (TD) or formal thought disorder (FTD) refers to disorganized thinking as evidenced by disorganized speech. Specific thought disorders include derailment, poverty of speech, tangentiality, illogicality, perseveration, neologism, and thought blocking.


**Behavior Variables**

- What is the nature and type of the thought disorder?
- Have you considered cultural differences?
- Is the thought disorder global, does it affect every part of their thinking, or just a selected area?
- If it is a selected area, how does it impact on Danger to Self, Danger to Others, and/or Grave Disability?

---

**Behavior Type**

**Seriousness Of Precipitating Events**

- How serious were the circumstances that brought the person into the hospital?
- Who reported this information to you?
- Was the situation serious and the person is dismissing it as nothing?
- Did something happen physically or was it merely words?
- Has the person done similar things in the past?
- How does the precipitating event lead you to believe that the person continues to be a Danger to Self, Danger to Others, and/or Gravely Disabled at this time?

**Behavior Type**

**Recent Discharge From Psychiatric Hospital**

- When was the person last in a psychiatric treatment facility?
- What were the circumstances of the release or discharge?
- Was the release or discharge against medical advice?
- Did the person elope or AWOL from the facility?
- Does the person have a pattern of not complying with outpatient treatment plans?

Source: 2014 Superior Court of California, County of Los Angeles
What are the Different Hearings Held Under the Lanterman-Petris-Short Act?  

Part I

Certification Review Hearing / Probable Cause Hearing

A Certification Review is a facility-based hearing for persons on WIC 5250 (14-day) or 5270 (30-day) holds. The facility is required to notify the Court through the Mental Health Counselor's Office when any person is placed on a 5250 or 5270 hold. The Certification Review Hearing is to be held within 4 days of the person being placed on the hold. A facility representative must present the probable cause information at the hearing. The representative of the facility must be a mental health professional designated by the director of the facility to present. The psychiatric treatment facility representative must show probable cause that the person is a danger to self or others or gravely disabled due to a mental disorder. The patient is usually represented by a Patients' Rights Advocate from the Los Angeles County Department of Mental Health but may be represented by a private attorney. The hearing is based upon the specific criteria certified on the hold.

This type of hearing is also known as a Probable Cause Hearing.

Probable Cause Hearing Process is when a patient is hospitalized in a psychiatric hospital against his or her will, he or she is placed on a 72 hour hold (WIC 5150). At the end of the 72 hours or any time during the 72 hours, the doctor may decide to discharge the patient, have the patient sign into the hospital as a voluntary patient, or place the patient on a 14 day hold (WIC 5250). The doctor may place the patient on a 14 day hold if he or she feels the patient is a danger to self, danger to others, or gravely disabled (unable to provide food, clothing or shelter) due to a mental disorder. At the end of the 14 day hold, the doctor may place the patient on an additional 30 day hold (WIC 5270.15) if the doctor feels the patient remains gravely disabled and requires further treatment.

Source: 2014 Superior Court of California, County of Los Angeles
What are the Different Hearings Held Under the Lanterman-Petris-Short Act? Part II

LPS hearings are non-public and confidential. If the patient does not wish family present, the family will not be admitted to the hearing. If the patient wishes to have a family member present, the person may be admitted to the hearing as an observer. If the family member wished to present information supporting the hospitalization they are encouraged to give the information to the hospital presenter and let the presenter provide the information at the hearing. This process helps alleviate any potential hostility or alienation which might develop because of the patient wishing to be released from hospitalization and the family member feeling they should remain in the hospital for further treatment. If the family member has information supporting the release of the patient from the hospital, they should give this information to the Patients' Rights Advocate who will present the information at the hearing. The offer by a family member or other person to provide food, clothing or shelter to a patient is required to be in writing by WIC 5250(d)(2). This requirement also may be satisfied by the Patients' Rights Advocate talking to the family member or other person and obtaining an Affidavit from that person over the telephone to present at the hearing.

The probable cause hearings are administrative hearings. This means that they are much less formal than judicial hearings and formal legal rules, such as the rules of evidence (i.e., hearsay information) do not apply. The purpose of the hearing is to gather as much information as possible so the hearing referee can decide whether probable cause exists to believe that the person is a danger to self, danger to others, and/or gravely disabled.

It is the responsibility of the hospital presenter to explain to the hearing referee:

(1) the events and the patient's behavior leading up to the patient's hospitalization; (2) the patient's behavior during hospitalization which illustrates his or her mental disorder and his or her dangerousness or grave disability; (3) previous psychiatric history; (4) living arrangements before hospitalization and plans after discharge; (5) the patient's diagnosis; and (6) the medications currently prescribed and whether the patient is taking these medications.

It is the responsibility of the Patients' Rights Advocate to present the patient's point of view. It is the job of the advocate to attempt to gain the patient's release from the hospital if the patient desires release, even if the release may not be in the patient's best interest. This is the advocate's job no matter what they feel personally.

Source: 2014 Superior Court of California, County of Los Angeles
What are the Different Hearings Held Under the Lanterman-Petris-Short Act?  

Part III

If the Mental Health Hearing Referee determines that there is probable cause for the patient to remain in the hospital based upon one or more of the certification criteria, he or she will inform the patient of this decision and the reasons for it. The referee will attempt to inform the patient in a way that the patient will understand. The referee will also indicate that the patient has other legal options open to him or her, which the advocate will then explain. If the patient desires to file a Writ of Habeas Corpus, the Patients’ Rights Advocate will prepare the Writ for the patient’s signature, serve a copy of the Writ on the facility, and file it with the Court.

If the hearing referee determines that there is no probable cause to believe the patient meets one or more of the certification criteria, he or she will inform the patient and hospital representative of this decision and will explain the reason for it. If the hospital and the patient agree, the hospital then may accept the patient as a voluntary patient. If not, the patient must be discharged from the hospital.

Medication Capacity Hearing / Riese Hearing

A Medication Capacity or Riese Hearing (WIC 5332-5334) is a facility-based hearing to determine if a person on any of the LPS holds, other than a temporary conservatorship or conservatorship, has the capacity to refuse psychiatric medications. If the person is on conservatorship, the conservator should be notified and advised to request a hearing with the Court. The initial Riese hearing for LPS holds must be held at the facility. The treating physician must file (FAX) a petition to the Mental Health Counselor's office. According to WIC 5334(a) Capacity and/or Medication hearings required by section 5332 shall be heard within 24 hours of the filing of the petition whenever possible. In no event shall hearings be held beyond 72 hours of the filing of the petition. The decision of the Mental Health Hearing Referee may be appealed to the Court by either the patient or the treating physician. The current treating physician must present the evidence at both the facility-based hearing and any subsequent Court hearing. This type of hearing is also known as an antipsychotic medication capacity hearing.

Source: 2014 Superior Court of California, County of Los Angeles
Q & A - WIC 5150s and 5185s in Hospital Emergency Rooms Part I

1. Question When does the 72 hour involuntary admission time associated with WIC 5150 detention start?

   Answer DMH considers the 72 hour period to start when the individual is involuntarily detained in an LPS designated facility or other crisis mental health setting. The period does not include time that the individual was being held by police before coming to an LPS designated facility or other crisis mental health program, or time spent in a non-designated emergency room. One exception is time spent in an emergency room under detention pursuant to Health and Safety Code 1799.111. In this exception, up to 24 hours of detention time can be subtracted from the 72 hour period of detention under WIC 5150.

2. Question Can an individual with serious mental health problems be involuntarily detained in the emergency room of a hospital that does not have a psychiatric unit? Does the detention count toward the 72 hours of involuntary admission?

   Answer Yes, an individual with serious mental health problems can be involuntarily detained in the emergency room of a hospital that does not have a psychiatric unit. The hospital may subsequently be required to justify this on a clinical basis. Up to 24 hours of this detention time may count toward the 72 hours of subsequent involuntary hospitalization at an LPS designated facility. (Health and Safety Code (HSC) 1799.111).

3. Question How long does a WIC 5150 application remain valid for purposes of admission to an LPS designated facility?

   Answer DMH considers WIC 5150 application to be valid for purposes of admission to an LPS designated facility unless or until a period of no more than 72 hours of custody for mental health assessment, evaluation, and crisis intervention has occurred.
Q & A - WIC 5150s and 5185s
in Hospital Emergency Rooms Part II

4. Question May a non-LPS designated facility release from WIC 5150 detention an individual who was placed in detention by an LPS authorized person who has subsequently left the facility?

Answer DMH has no authority under WIC 5150 to require a non-LPS designated facility to detain someone after the person or agency that initiated the detention has left. A non-LPS designated facility may consider other legal obligations and statutory authority that can influence its decisions regarding further detention.

5. Question May staff of an LPS designated facility re-evaluate an individual in a non-LPS designated facility and determine that WIC 5150 detention criteria are no longer present?

Answer Yes. However, in certain instances, DMH LPS designation guidelines require that the LPS designated facility first conduct a WIC 5151 assessment to determine whether or not the involuntary detention is appropriate and inpatient admission is required. This requires the involvement of a professional with admitting privileges at the LPS designated facility.

6. Question May a non-LPS designated facility detain an individual under WIC 5150 in instances in which the detaining authority has left the facility?

Answer DMH has no authority to require such detention. During instances in which non-LPS designated facilities may wish to continue detention, it may consider other legal obligations and statutory authority for continuing such detention.

7. Question When a non-designated facility admits to an inpatient status an individual who was involuntarily detained under WIC 5150 and was left there by the detaining authority, is the WIC 5150 detention valid for involuntary transfer to an LPS designated facility?

Answer No. DMH does not consider detention under WIC 5150 with subsequent admission to a non-designated inpatient status to be valid. DMH LPS designation guidelines require a valid 5150 detention for involuntary transfer of an individual from a non-designated facility to an LPS designated facility.
Q & A - WIC 5150s and 5185s in Hospital Emergency Rooms

Part III

8. Question If an individual currently detained pursuant to WIC 5150 is subsequently re-evaluated by an LPS authorized individual prior to WIC 5151 evaluation to determine the need for inpatient treatment, does DMH consider a second WIC 5150 application valid and, if so, does it supersede the original 5150 application?

Answer DMH considers the second WIC 5150 application to be valid and superseding the original WIC 5150 application only in cases in which the individual in custody has not been provided with assessment, evaluation, or crisis intervention pursuant to WIC 5150. In such cases, the most recent assessment is likely to represent the more accurate reflection of the presence of probable cause for further detention.

9. Question If 72 hours of evaluation, assessment, and crisis intervention for an individual who was detained under WIC 5150 outside of admission to an LPS designated facility lapses, and the detainee still meets criteria for 5150 detention, under what circumstances does DMH consider a subsequent WIC 5150 application to be valid?

Answer DMH considers the validity of any current WIC 5150 application to be independent of any previous episode of non-inpatient detention for purposes of determining compliance with DMH LPS designation and authorization guidelines.

10. Question Are the LAC DMH procedures described in these FAQs the same for WIC 5585?

Answer Yes, as applicable.
Q & A – General LPS FAQs for Families  Part I

1. Question  What is an LPS Conservatorship?

Answer  A Lanterman Petris Short (LPS) Conservatorship is the legal term used in California which gives one or more adults (conservator) the responsibility for overseeing the comprehensive mental health treatment for an adult (conservatee) who has a serious mental illness and is gravely disabled.

2. Question  What defines gravely disabled?

Answer  LPS Welfare and Institutions code section 5008 (h)(1) (A) defines the term “gravely disabled” as a condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

3. Question  How is the presence of grave disability determined for purpose of conservatorship?

Answer  Grave disability is the clinical and legal basis for establishing a LPS conservatorship. If there are no suitable alternatives to conservatorship and the person is determined to be gravely disabled (by Public Guardian and Superior Court) then a conservatorship may be established.

4. Question  How do I initiate LPS Conservatorship?

Answer  The LPS Conservatorship process is initiated via evaluation by designated mental health treatment facility and application to Public Guardian which is then investigated by their office.

Source: 2014 Superior Court of California, County of Los Angeles
### Q & A – General LPS FAQs for Families  
#### Part II

5. **Question**
   I hear I can initiate a Probate Conservatorship for my loved one without involving the Public Guardian?

   **Answer**
   A Probate Conservatorship can be filed by anyone at the Stanley Mosk Courthouse but a Probate Conservatorship will not authorize a Conservator to involuntarily detain or treat a person with a mental health disorder.

6. **Question**
   How are LPS and Probate Conservatorships different?

   **Answer**
   The LPS and Probate conservatorship programs differ in a number of important ways:

<table>
<thead>
<tr>
<th></th>
<th>LPS</th>
<th>Probate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Program Description</strong></td>
<td>Involuntary Mental Health treatment and estate management</td>
<td>Protective services and estate management (Cannot authorize mental health treatment)</td>
</tr>
<tr>
<td><strong>Program Type</strong></td>
<td>Mandated by state law</td>
<td>Permissible under state law</td>
</tr>
<tr>
<td><strong>Process Initiated By</strong></td>
<td>1. Evaluation by designated mental health treatment facility and application to Public Guardian</td>
<td>Anyone through petition to the Court (Usually requires the assistance of an attorney)</td>
</tr>
<tr>
<td></td>
<td>2. Conservatorship investigation by Public Guardian</td>
<td></td>
</tr>
<tr>
<td><strong>Population Served</strong></td>
<td>Persons gravely disabled due to mental disorder and in need of involuntary treatment</td>
<td>Persons unable to provide for personal needs for physical health, food, clothing and/or shelter or unable to resist fraud or undue influence</td>
</tr>
</tbody>
</table>

Source: 2014 Superior Court of California, County of Los Angeles
Summary of Differences between LPS and Probate

**Major Differences: LPS vs PROBATE**

**LPS**
- Criteria is mental illness – grave disability
- Psychiatric diagnosis, usually a psychosis
- Must be renewed every year

**PROBATE**
- Criteria is cognitive & physical disabilities
- Diagnostically, disorders associated with aging process or head trauma
- No renewal process

Source: 2014 Superior Court of California, County of Los Angeles
### Q & A – General LPS FAQs for Families

#### Part IV

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>7. How long is an LPS Conservatorship granted?</td>
<td>An LPS Conservatorship is granted for one year term but can be renewed for another year if the conservatee continues to be gravely disabled. It is important to pay attention to the dates given for renewal from the court, mark the date on your calendar and complete the court documents timely.</td>
</tr>
<tr>
<td>8. Who can be conserved?</td>
<td>Conservatorships are granted by the court for adults and some minors involved in the dependency court, with a mental disorder for which the court determines grave disability is present and no suitable alternative to conservatorship exists. The most common mental disorders that qualify for conservatorship are: Schizophrenia, Bi-Polar disorder, Schizoaffective disorder, Major Depression and Psychosis NOS.</td>
</tr>
<tr>
<td>9. Who can be the Conservator?</td>
<td>The Public Guardian is required to make a recommendation on who should serve as the conservator. The court will make the final determination on who should serve as conservator. Family members and other interested parties have priority to serve as conservator as long as they are willing, able and appropriate to serve. In the event no one is willing, able or appropriate to serve then the Public Guardian will serve as conservator.</td>
</tr>
<tr>
<td>10. What type of LPS Conservatorships do the courts grant?</td>
<td>LPS is a type of conservatorship. The powers that the court can grant include conservatorship of the person, conservatorship of the estate or conservatorship of both person and estate. When a family member or other interested party is appointed the conservator the court will appoint them over the person only. If there is an estate that needs protection (more than just social security benefits) the court may require the conservator to be appointed over the estate. This usually requires the conservator to be bonded to guard against any potential mishandling of the estate. If the Public Guardian is appointed conservator, they are generally appointed over both the person and estate.</td>
</tr>
</tbody>
</table>
Q & A – General LPS FAQs for Families

11. Question  What are the responsibilities of the family member or Public Guardian as conservator with respect to the conservatee?

Answer  The responsibilities are the same: approving an appropriate placement for the conservatee to live based on a clinical opinion, approving the treatment and medication for the conservatee and ensuring the conservatee has the medical and financial benefits so their food, clothing and shelter needs are met. Conservators should participate in developing the treatment plan that promotes treatment compliance.

12. Question  What qualifies a person for an LPS Conservatorship?

Answer  To begin the process a referral must be made to the Office of the Public Guardian. Accepted referrals are investigated to determine if conservatorship is necessary and if so, whom should be appointed as conservator. As the County Conservatorship Investigator, the Public Guardian is the only entity that can submit and investigate the initial petition for conservatorship. Conservatorship is based on “grave disability:” unable to provide for your basic needs of food, clothing and shelter due to a mental disorder. Conservatorship is considered a last resort because it takes away a person's right to make decisions about where they live and if they should receive mental health treatment. By law any suitable alternative to conservatorship will result in the conservatorship not moving forward. If a petition for conservatorship is before the court, the judge or a jury will ultimately decide if a conservatorship is to be established.
13. Question  How do I know if my loved one should be considered a harm to himself or others required for a 5150?

Answer  You do not need to wait until your loved one tries to hurt themselves, attempt suicide or they try to hurt someone. If you believe erratic behavior by your loved one is present, you should share the information with a health professional or law enforcement. Certain individuals are granted authority to detain someone under WIC 5150 including peace officers and mental health professionals.

14. Question  Is an LPS Conservatorship important to families?

Answer  An LPS Conservatorship gives families a tool to use when working with treatment providers and others to secure proper treatment for their loved ones.

15. Question  How can an LPS Conservatorship status help individuals?

Answer  For an individual who is determined to be gravely disabled, an LPS conservatorship provides a mechanism for assigning responsibility to provide for the safety, housing and aspects of treatment in the interest of the conservatee.
16. Question  Where is the conservatorship court?

Answer  The LPS conservatorship court is temporarily located at Metropolitan Courthouse: 1945 South Hill Street, Los Angeles 90007. The LPS conservatorship courtroom (Department 95A) is located on the 4th floor of the courthouse.

17. Question  Does a person need Social Security, MediCal or insurance to be conserved?

Answer  No. However, a source of financial and medical insurance benefits determines many aspects of hospitalization depending on hospital and benefit plan. In general, the greater the benefits, the more options are open. For patients who are without benefits, it is especially important to emphasize that the treatment decisions are being made on the basis of what is clinically indicated and not to avoid unnecessary cost.

18. Question  What legal officials play significant roles in LPS Conservatorship proceedings?

Answer  These are some of the officials/entities involved in the process:

Office of the County Counsel  – represents Public Guardian in establishing conservatorships.

Private Attorney  – mental health court utilizes a panel of private attorneys and can assign the conservator an attorney when needed. This attorney may be paid for by the court. A conservator may also chose to retain their own attorney.

Public Defenders  – represents persons to be conserved and not the family.

Public Guardian  – is the County Conservatorship Investigator and investigates LPS Conservatorship referrals, makes recommendations to the court and serves as conservator when necessary.

District Attorney  – represents the hospitals on petitions or writs regarding involuntary treatment prior to the conservatorship; also involved in criminal competency matters.

Superior Court  – ensures fairness and compliance with the laws in all proceedings involving involuntary treatment and conservatorships.
Private or Public Guardian Conservatorship Under LPS

Part I

1. Question  What powers and responsibilities are generally given when the conservatorship is granted?

Answer  Conservator Powers With Respect to the Conservatee

Generally these powers are granted by the court but occasionally some are not granted by the judge to the conservator.

- **Power 4** – **Open Residential**: To place the conservatee in a private residence, psychiatric or non-psychiatric residential care facility, open nursing/convalescent hospital or other State licensed facility where the conservatee has free access into or out of the premises.

- **Power 5** – **Open Acute Care Hospital**: To place the conservatee in a portion of a private acute care psychiatric hospital, State or County hospital or hospital operated by the Regents of the University of California or by the United States Government, where the conservatee has free access into or out of the premises.

- **Power 6** – **Locked Nursing or Residential Facility**: To place the conservatee in a locked medical or psychiatric nursing / convalescent facility, including IMDs or other State or County licensed facility where the conservatee does not have free access into or out of the facility.

- **Power 7** – **Locked Acute Care Hospital**: To place the conservatee in that portion of a State or County hospital facility or a hospital operated by the Regents of the University of California or by the United States Government or of a private acute care psychiatric hospital, where the conservatee does not have free access into or out of such hospital.

- **Power 7a** – **Developmental Disabled Facility**: Including a facility for the Developmentally Disabled under the jurisdiction of the Department of Developmental Services, State of California, or any of the Regional Centers for the Developmentally Disabled.

- **Power 8** – **Mental Health Treatment**: To require the conservatee to receive treatment, other than psychotropic medications, related specifically to remedying or preventing the recurrence of the conservatee’s being gravely disabled.

- **Power 8a** – **Medication**: To require the conservatee to be treated with psychotropic medication.

Source: 2014 Superior Court of California, County of Los Angeles
2. Question
What limitations (disabilities) are established for the Conservatee and what powers are given to the conservator?

Answer

- **Power 9** – The privilege of possessing a license to operate a motor vehicle is suspended. This power can be returned with the courts approval. The conservator can ask the psychiatrist to petition the court to allow the person to drive. It is up to the court to grant permission for driving and it is the DMV that evaluates and issues the license.
- **Power 9a** – The privilege of possessing, controlling or maintaining custody of a firearm or any other deadly weapon is suspended.
- **Power 10** – The right to refuse or consent to psychiatric treatment is suspended.
- **Power 11** – The right to enter into any contracts is suspended.
- **Power 12** – The right to refuse or consent to medical treatment is suspended. This is usually related to a specific medical problem that is present at the time of the conservatorship being established. For example – diabetes. This power does not give the Conservator the authority over all medical conditions or intrusive procedures. Intrusive procedures must be authorized by the Court if the conservatee lacks capacity to consent.
- **Power 13** – The right to control their own estate. This power is usually not provided to family conservators for whom the conservatee has only public benefits (SSI or SSA). Family members can apply to the Social Security Administration to be the Representative Payee.

3. Question
What are the general responsibilities of the Office of the Public Guardian?

Answer
The Office of the Public Guardian is responsible for investigating the need for conservatorship and if appointed as conservator by the court, is responsible for managing the person and/or estate matters of the conservatee. The primary duties of a conservator are to ensure the conservatee receives appropriate care and treatment; establishes and maintains all entitled benefits; pays bills, manages personal and real property and accounts to the courts on all income, expenses and actions taken by the Office of the Public Guardian.
Private or Public Guardian Conservatorship Under LPS
Part III

4. Question  What is the best way to get in contact with the Public Guardians Office?

   Answer  Due to the high volume of calls, email is the recommended method of communication with Public Guardian deputies. Please allow 24 hours for the deputy to respond. If it is an urgent matter please call the main number at (213) 974-0515 and ask to speak to the Duty Worker. The Duty Worker is available during regular business hours.

5. Question  What is the most efficient way to secure consents for treatment or other interventions as required from a Public Guardian or private conservator?

   Answer  Contact the assigned Deputy by phone and by email to receive necessary signatures. Deputies are frequently in the field so if the deputy is unavailable and the signature cannot wait for their return, then call a supervisor to get necessary documents signed. Private conservators should try to meet with the treatment teams in person as they are able. However, faxing the private conservator paperwork should be sufficient to alert treatment staff. Private conservators will need to sign admission or other documents as necessary or required by the treatment provider.

6. Question  What is the most effective method to ensure that the Public Guardian is informed about enrollments, disenrollment, and changes in treatment?

   Answer  Due to the high volume of calls, email is the recommended method to communicate about these issues. If no response is received within two business days, a call should be placed to a Public Guardian Supervisor.

7. Question  What documents must treatment providers receive in order to deliver services in compliance with applicable regulations of holding an LPS conservatorship?

   Answer  Providers must have in their records consent for service, consent for medication, and copies of the orders containing the powers as well as the letters of conservatorship.
8. Question  What documents must be given by the provider to the private or Public Guardian conservator?

   Answer  The conservator needs to have copies of current service plans for the conservatee.

9. Question  Who is responsible for applying for financial and insurance benefits?

   Answer  The private conservator or Public Guardian is legally responsible for applying for benefits when they have powers over the estate. Private conservators should apply to be the Representative Payee for all social security benefits and they should ensure eligibility to Medi-cal or other health care insurance.

10. Question  What are the financial responsibilities of the private or public conservator?

    Answer  The Office of the Public Guardian and/or the private conservator is responsible for marshalling all assets, establishing benefits and paying expenses to the extent that they receive benefits for the client if they are conservator of the estate. If the private conservator is the Representative Payee for social security benefits the private conservator is responsible for maintaining benefits and paying expenses for housing, personal needs, etc.

11. Question  What types of placements are appropriate for conserved clients?

    Answer  Public Guardian has LPS clients housed in licensed facilities in order to ensure psychotropic medications are administered to the conservatee. Deviation from a licensed facility for emergency placement will be reviewed on a case to case basis. Private conservators have responsibility to assure that placements are safe and appropriate and consistent with the treatment team recommendation and/or court orders.

12. Question  Should the conservator keep a journal or log?

    Answer  It is important to keep a log to document hospitalizations, medications, behaviors and symptoms and their side effects. It should contain dates, treating personnel, nature of legal encounters, incarcerations, substance use, treatment and other medical information. Also a journal or log is useful if the conservator has responsibility to place conservatee in a residence and has the responsibility to document the use of income for the conservatee.
Alternatives to LPS Conservatorship Part I

1. Question
What is AOT-LA?

Answer
AOT-LA is the Assisted Outpatient Treatment for Los Angeles County. It is the programmatic implementation of the Assisted Outpatient Treatment Demonstration Project Act of 2002, also known as “Laura’s Law”.

2. Question
What is the purpose of AOT?

Answer
The purpose and intent of AOT is to identify persons with serious mental illness and a history of treatment non-compliance, assess if there is substantial risk for deterioration and/or detention under WIC 5150 which could be mitigated by provision of appropriate services, and, solicit voluntary acceptance of services. If needed, mandated participation in such services through a court order can be sought.

3. Question
What types of treatment are available through AOT-LA?

Answer
DMH established the AOT-LA program through an expansion of the following adult Mental Health Services Act (MHSA) Community Services and Support (CSS) programs:

- **Outreach and Engagement Teams**: These teams primarily screen requests and referrals, conduct extensive outreach and engagement on candidates who meet criteria, and prepare documents/functions needed for petitions to the court.

- **Full Service Partnership Programs**: This intensive outpatient service is field service capable providing an array of services including targeted case management, mental health services, and, if a client elects, medication support services.

- **Alternative Crisis Services**: This residential type of service is carried out at one of three Enriched Residential Services facilities where the client has a bed, 24-hour supervision, and support for more frequent mental health services in an unlocked setting.
Alternatives to LPS Conservatorship

Part II

4. Question Is AOT or Laura’s Law capable of mandating medication or administering involuntary medication?

Answer No. Laura’s Law states, under WIC 5348 (c): “Involuntary medication shall not be allowed absent a separate order by the court pursuant to Sections 5332 to 5335, inclusive”. DMH and/or contract providers may provide medication support services provided a consent for medication form is signed by a client.

5. Question Is AOT a locked facility?

Answer No. AOT is primarily an outpatient treatment service with some limited capability for unlocked residential services.

6. Question Can I get assistance to fill out the referral form?

Answer Yes. Please contact the AOT-LA Outreach and Engagement staff at (213) 738-2440 or AOTLAOE@dmh.lacounty.gov.

7. Question For the 5346d examination – who will be considered qualified as a “Licensed Mental Health Treatment Provider”? Must it be the attending psychiatrist or can it be someone else (psychologist, therapist, etc.)?

Answer A licensed mental health treatment provider is any member of the treatment staff of the facility selected by the court. The discipline is not specified.

8. Question Does a PET team member doing a 5150 evaluation, also known as 72-hour hold and/or 3-day hold, qualify?

Answer A 5150 assessment is not precluded by a 5346d examination.

9. Question If a person is in a LPS designated facility for the 5346d examination, what kind of documentation is required for the court?

Answer The documentation of the assessment completed for purposes of clinical care.
Alternatives to LPS Conservatorship     Part III

10. Question  Where and how is this documentation to be submitted?
   Answer  The court specifies—likely to the court and/or the petitioner (DMH).

11. Question  Who qualifies as the referring party under the category of ‘Licensed Mental Health Treatment Provider’?
   Answer  There are no special qualifications for such a provider under AOT, beyond those understood for other programs. AOT-LA does not establish qualifications different from those in the statute.

12. Question  Regarding the 5346f, if a LPS designated facility receives a patient under this, can the facility immediately have the patient evaluated for a 5150?
   Answer  Yes.

13. Question  If the patient does not meet 5150 criteria immediately, can the patient be released (for example from our Emergency Department) or does the patient need to be seen by a psychiatrist?
   Answer  That would depend on facility policy. For purposes of this question, it should be noted that the absence of 5150 detention does not require discharge of a patient involuntarily detained under 5346f.

14. Question  If at any time during the 72 hours period for either the 5346d or the 5346f, the physician believes that the patient does not need hospitalization, can the patient be released before the 72 hours is up?
   Answer  Facility policies and procedures for determinations of appropriateness for inpatient care and adequacy of discharge planning are unchanged by detention under 5346.
Department Heads

Jonathan E. Sherin, MD, PhD
Director, Department of Mental Health

Brittney Weissman
Executive Director, NAMI – Los Angeles County Council