

VIDEO: <https://saclaw.org/law-101/self-help-videos/#conservator>

## WITH HEART: UNDERSTANDING CONSERVATORSHIP

NARRATOR: Each of us begins life needing the care of others. Later in our lives, many of us may again through age, accident or disease, need help to live the best life possible.

Most of you watching this tape are about to be appointed conservators. If you are appointed guardian of a minor child, many of the principles in this tape will apply to your situation as well. This tape will outline your duties and responsibilities as a new conservator. You'll also be required to purchase the handbook for conservators. And which provides more detailed information. You should keep this comprehensive reference manual handy and refer to it whenever you are in doubt about your role as a conservator.

In California, if people are found by a judge to be unable to care for themselves or their finances, the Court may appoint another person to take responsibility. This arrangement is called a conservatorship. The person deemed responsible by the Court is the conservator and the person needing help is called the conservatee. There are all kinds of people who may become conservatee's: the elderly, the developmentally disabled, or those with serious mental or physical disabilities. What they have in common is that they need help managing their daily personal needs or financial affairs.

MAN: Then doctors come in. He says, "Well, all I can tell you is your nephew got a blood clot in his brain and we have to have to surgery right away, because it's - you know, it's a lot of pressure in his head. If we don't, he's going to die!"

WOMAN: Well she actually was the one who gave the first sign, because she she contacted her nephew, who is my brother-in-law up in Portland and told him that she just didn't feel like she was able to keep track of her checkbook and just some of the more complicated things in her household anymore, and that she needed some help.

NARRATOR: The conservator often is a member of the family - a child brother or sister, parent or other relative. If a family member is unwilling or unable to serve, there are now private professional conservators who for a fee, will administer the conservatorship. Whatever the relationship to the conservatee, the legal duties, and responsibilities of the conservator are the same. They are prescribed by law and are subject to the ruling of the Courts. Any changes in the conservatorship requiring Court approval will be initiated by your attorney.

Conservators are held to a very high standard and the Court closely monitors their actions through its investigators and examiners. Conservatorship is an important responsibility intended to serve the best interests of the conservatee, supporting, encouraging and assisting the conservatee's capabilities. The court wants to see that the conservatee is treated with respect, is consulted in decision-making and that his or her wishes are honored.

WOMAN: One of Abby's hobbies, the main hobby was her garden at home. It was a hard decision to bring her here, of course, and so the main thing that I thought that would keep her content was to have her garden. And the first thing we did was to buy her a lemon tree, because that was something she always had was a lemon tree.

ANOTHER WOMAN: She is so intent on pleasing, that sometimes she will not acknowledge that something is uncomfortable for her, until you really start prodding her. It's at times like this that I really have to rely on the attendance who watch her, and know when she's uncomfortable because if I ask her, she'll say, "Oh no, there's nothing wrong."

NARRATOR: There are two types of conservators: conservator of the estate and conservator of the person. A conservator may fulfill either or both of these roles. At the beginning of a conservatorship, the conservator and his or her attorney will be required to file a general plan - a document detailing where the conservatee will be living, what sorts of support services have been arranged, and plans for medical care, meals, clothing, transportation, recreation and financial needs. The conservator of the estate is responsible for managing the property and financial affairs of the conservatee. As a conservator of the estate, it is your duty to collect income, pay debts, and invest the conservatee's assets in a manner consistent with court policy.

To protect the conservatee's cash or liquid assets, the Court will order you to post a surety bond. After you are appointed, the Court will issue letters of conservatorship, documenting your appointment to all financial institutions with which the conservatee had dealings - banks, savings & loans, stock brokers, insurance, and credit card companies. Copies of the letters of conservatorship will also be needed for the government, the conservatee's retirement plan, debtors and creditors, county recorders and the post office.

Your first obligation as conservator of the estate is to identify, locate and gather all the conservatee's assets. Working with your attorney, you must complete, an inventory and appraisal of all assets. This document must be filed with the Court within 90 days of your appointment, and must detail all property of the conservatee at the moment of your appointment, not anytime later. Consult your attorney about which assets, you appraise and which assets are appraised by the Court-appointed referee.

The inventory and appraisal should include not only real estate and personal property, but all financial assets, including cash, cheques, bank accounts, stocks, bonds and notes. Keep meticulous records. Every financial transaction, no matter how small, must be recorded. As soon as you are appointed, open a checking account in your name, as the conservator of the estate of the conservatee, to handle all funds of the conservatorship. Although the account is in your name, it should however, bear the social security number of the conservatee. All income and expenditures should go through this checking account. If funds accumulate, the excess can be moved into a savings account or certificate of deposit. However you decide to manage the accounts, make sure you keep thorough and accurate records.

One year after the conservatorship is established and every other year afterward, you and your attorney must file a full accounting with the Court, listing all sources of income and all recipients of disbursements.

LAWYER: Keep track of the money coming in and money going out, it takes a special ability to handle, just be careful.

NARRATOR: Protecting the conservatee's assets will involve efforts on several fronts. It may mean physically securing valuables by placing them in the conservatee's safe deposit box. Protecting real estate might involve installing security systems and smoke alarms or making structural repairs. For insurance purposes, take photographs of furniture, antiques, works of art, jewelry, and valuable

collections. Undriven Vehicles should be properly garaged. If storage is not cost-effective, you may consider selling the vehicles. Business interests and partnerships may need to be reorganized.

Part of your obligation is to collect all income and monies due to the conservatee - rentals on property, tax refunds, stock dividends, insurance and retirement plans, royalties, or benefits from current or former employers. If the income of the conservator is not sufficient to pay for nursing care, you may be authorized to sell assets in order to raise funds. The formalities are detailed in the handbook.

As conservator, you are obliged to manage daily finances as well, paying bills on time and within a reasonable budget. Keep accurate records of all money spent and received and never under any circumstances mix your own funds with conservatorship funds. If the conservator is drawing a salary, he or she may control these funds without a court order. Another way to maintain the dignity and autonomy of the conservator is through a court-ordered allowance that may be spent according to the conservatee's wishes.

WOMAN: She still thinks of herself as being in charge. I think the hardest thing for her to accept is that she doesn't have total control. She can't always go where she wants to go and make decisions. So, we try to give her as much authority as we can.

NARRATOR: You may not make gifts or payments to yourself from the conservatorship without a court order. Likewise no gifts or payments to relatives or anyone else may be purchased with the estate's funds, without the express permission of the Court. You must take greater care of the conservatee's money than you would have your own. Any Investments of the conservatee's money must be made prudently, conforming to the Court's strict requirements.

Until now we have been speaking about conservatorship of the estate, taking on the responsibility for the property and financial affairs of the conservatee. You may also be named conservator of the person. The conservator of the person has the responsibility for the daily personal needs of the conservatee. In your official dealings with caregivers, government agencies, medical plans, etc., your badge of authority is a document issued by the Court called letters of conservatorship. You should take these with you when you perform your duties as a conservator.

Very likely, the single-most important issue facing the conservatee is the question of where he or she will live. Every reasonable effort should be made to find the most appropriate living arrangement for the conservatee, taking into consideration the conservatee's capabilities and finances. You must not place the conservatee in an institution, unless all other possibilities for care have been exhausted. The law states, the conservator shall select the least restrictive residence that is appropriate for the conservatee's care. The handbook will help you decide which is the least restrictive residence. In many cases, this may be the conservatee's home.

WOMAN: We really felt that if we were to take her out of her house and put her in a convalescent home or wherever out of her house, she would just - just die.

CONSERVATEE: I lived in this house a good while.

ANOTHER CONSERVATEE: It was a low-shingle house when I first got it, see? And then they had to stucco over the shingles. The same little house.

WOMAN: Every time we bring her home here, shortly after she gets here, "Well, it's time to go to my old shack." You know, and doesn't matter where she is or whether she's having a good time or not, she wants to get back to that all in a second. She's serious.

NARRATOR: If you need to remodel to accommodate the conservatee's disabilities, Court permission, maybe necessary. Consult with your attorney, if you are in doubt. If you and your conservatee choose home living, there are a number of agencies that can help by providing meals, transportation, attendance and other in-home services. As a conservator, you are required to seek out services available in the community, and apply to programs for which the conservatee may be eligible.

Your handbook lists many services which may be available in your area, including:

Case Management Services,  
Support Groups,  
Meals on Wheels,  
Homemaker Program,  
Home Health Care,  
Adult Day Healthcare or  
Adult Social Day Care

MAN: Half of our elderly people have no knowledge whatsoever. For example, what's available to them through Social Security? We have to go out and search those things down for them.

WOMAN: Out of the ones that we use, the most important is the senior center. They've been really wonderful. They have a bus that comes and picks up my aunt every day, five days a week. They come around 11:00 or 11:30 and pick her up and take her to the center, and she has a nice hot meal and they have different activities.

ANOTHER WOMAN: We had access to a van service, which we found by looking in the phone book, that had a wheelchair lift. And that was really helpful, because Doris was in a wheelchair for several months and she could go places in the van without even having to get out of her wheelchair.

NARRATOR: If the conservatee owns his or her home, but does not have a regular income, discuss options with your attorney that could allow the conservatee to remain at home.

If home living is not a workable option and the conservatee's best interests would be better served in a care facility, it is important to choose the facility most consistent with the conservatee's former living situation. Any change in the conservatee's residence must be reported to the Court and the conservatee's residence may not be moved out of state without the Court's permission. If the conservatee is moved to a care facility, the conservator is still responsible to see that the conservatee is comfortable and receiving appropriate health care nutrition, grooming, and recreation.

WOMAN: The kind of exercise classes that they do really gets the blood flowing, and the oxygen into the brain. And I get a kick out of watching her because when she was younger she couldn't dance where a darn. She's always been an exerciser in a mover. So it's kept her going.

NARRATOR: Maintain regular contact with the facility to monitor the care your conservatee is receiving and don't hesitate to question caregivers about the practices or conditions that make you feel uncomfortable.

MAN: I think that's very important to see how the resident is eating. If there are any complaints in regard to how they feel or what is taking place.

WOMAN: I'm really quite sure that she's getting good care, because when I go I always go unexpectedly. They do not know when I'm coming.

ANOTHER WOMAN: I really believe they take better care of my mother, because I'm here checking up on her.

NARRATOR: Make the conservatee's new environment as much like home as possible. Decorate the area with familiar objects and copy the favorite photographs, including pictures of the conservatee at various ages and in happy times.

The conservatee's clothing should be monitored carefully. Labeling the clothing with the conservatee's name, in a prominent place will be helpful to the laundry and may discourage theft, which has been a problem in some care facilities.

WOMAN: It's essential to talk to the administrator, to talk to the director of nurses, to see the social worker, to go there the day they're going to talk about the case, to see the head nurse every time you go, to look at the chart, ask questions, talk to the doctor - and that's really very important. You need to establish that you are the conservator of this case and you are in charge of what happens to the person. And you need to see yourself as part of the team.

NARRATOR: Even if the care facility has medical personnel on staff, efforts should be made to maintain the relationship with the family doctor. This will give the conservatee a sense of continuity and help ease the transition into his or her new living situation. Stay in touch with all healthcare providers and monitor any medical treatment administered to the conservatee. Provide for any special equipment the conservatee may need, such as oxygen, walkers or wheelchairs.

A judge may decide the conservatee is unable to give informed consent in authorizing medical treatment, such as major surgery or chemotherapy. If a medical situation arises in which your authority is unclear, ask your attorney for help. Whenever appropriate, consult with your conservatee regarding medical decisions and take his or her preferences seriously. Bear in mind that conservatorships often reverse traditional roles in decision-making.

WOMAN: It is like a mother taking care of a child, that's about the best way I can describe it. You're concerned with their health. You're concerned with the way they look. You're concerned with what they're eating. You're concerned with whether they're sleeping well. Exactly the same concerns we would have for a child.

NARRATOR: Besides providing for the conservatee's basic needs, it is important to support and enhance the conservatee's quality of life. Make sure the conservatee has access to what gives him or her pleasure. This can be as simple as supplying favorite food and drinks not provided by the care facility. So that the conservatee can best enjoy opportunities for stimulation and recreation, make certain that

corrective lenses are of current prescription and are well-fitted. If your conservatee enjoys reading arrange for magazine subscriptions and access to a library. Provide for a comfortable, well-lit and quiet place to read.

WOMAN: We are her outreach to the world. We have to provide for her the things that she can't obtain for herself - foods that she likes, magazines that she loves to read, clothing that she would like to have, because she can't just go out and choose those things and get those things for herself.

ANOTHER WOMAN: Don't forget that your beets. They're good for you.

CONSERVATEE: I don't care for them, I won't eat them. I don't like them.

SAME WOMAN: How come you used to feed them to me?

CONSERVATEE: I thought they'd be good for you [LAUGHS].

NARRATOR: For a conservatee in a care facility, human contact is essential. Arrange for a support network, family, neighbors and friends to visit, take the conservatee for outings, and to stay in touch by telephone and letter-writing.

WOMAN: Do you remember that?

CONSERVATEE: Do I remember what?

WOMAN: Do you remember the old songs you used to sing?

CONSERVATEE: [LAUGHS] So you lie awake just singin' the blues all night, Goody Goody. And you think that love's a barrel of dynamite [LAUGHS]. Goody. Goody. Goody. Hooray and hallelujah You had it comin' to ya. Goody Goody for her, Goody goody for him. And I hope it satisfied you, you rascal you. [LAUGHS] [APPLAUSE].

NARRATOR: If you are unable to make regular visits, arrange for a companion and remember to thank caregivers often.

Your duties as a conservatee or have only been outlined in this video tape. Generally, you will be acting in accordance with your legal obligation. If you make decisions with the best interests of the conservatee in mind, if you find yourself unsure of your legal duties, refer to the handbook, first. If you are still in doubt, consult your attorney.

WOMAN: Her affairs are kind of spread out and so it's been hard to get it all together. But I think it's worthwhile, because then you know that the person that you love is being taken care of and taking care of properly.

MAN: You're only here for one time. God put you in this world to do good, not bad. When you die, what are you going to tell God? Today, if I die today, He's going to say, "I know what you been doing, don't lie to me!"

WOMAN: It's a major service. It's a very humanitarian thing to do. And like all major services, it requires attention and time and caring and love.

ANOTHER WOMAN: Just have to be very patient, and, and loving, and in caring. And know that what you are doing is a very worthwhile service. Without you, they would live the life that they're living.

[MUSIC] [CREDITS]

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