Mental Health

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Supervising Attorney

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Probate

The Orange County Office of the Public Defender represents conservatees and proposed conservatees within Orange County’s probate conservatorship court, by appointment only.  Probate conservatorships consist of:

* Limited Probate Conservatorships--conservatorships for developmentally disabled individuals, structured to allow for as much independence and growth as possible, and;
* General Probate Conservatorships--a broader category of conservatorship, structured to assist individuals with disabilities stemming from traumatic injuries or medical conditions, natural cognitive decline from aging, as well as more severe cases of dementia and/or other neurological diseases or impairments;

In general, probate conservatorships are not appropriate for individuals suffering from mental illnesses (please see our Mental Health Advocacy section).  Please contact us at 714-568-4242 and ask to speak with an attorney from our office handling Probate Conservatorships or email us at probate@pubdef.ocgov.com.

* Mental Health Advocacy Unit
	+ How do I obtain the services of a Public Defender?

Deputy public defenders are appointed by the court. If you are involuntarily detained and cannot afford to hire an attorney, the court will appoint a public defender at your first appearance before a judge. If you have questions call the Mental Health Advocacy Unit at 877-494-7788.

* + How long can the hospital hold me against my will?

Under the current law you may be detained initially for 72 hours by authorized personnel (WIC 5150). At the conclusion of that time period, if the hospital still believes that as a result of a mental disorder or impairment by chronic alcoholism you pose a danger to yourself or a danger to others and you have been advised of the need for treatment and have been either unable or unwilling to accept treatment on a voluntary basis, you may be detained for a an additional 14 days (WIC 5250). Link to WIC.

* + What are my rights if I am involuntarily detained?
		- If you have been certified for a 14 day hold, you have an automatic right to a probable cause hearing unless you have requested a Writ of Habeas Corpus.
		- You have the right to be represented by a patient advocate at your probable cause hearing.
		- If you win your probable cause hearing, the hospital must release you.
		- If you lose your probable cause hearing you have a right to a Writ of Habeas Corpus hearing.
		- The court will appoint the public defender to represent you on the Writ of Habeas Corpus.
		- If you win the Writ of Habeas Corpus, you will be released.
		- If you lose, you will be kept until the end of the hold period.
		- At that time, the hospital will decide if they are going to pursue an LPS conservatorship.
	+ What is an LPS conservatorship?

If the hospital believes that you are unable to provide for your own food, clothing and shelter because of a mental disorder, the hospital can make a recommendation to the Public Guardians Office that a conservatorship be established for you.

* + - The Public Guardian, as the court investigator, will decide whether or not to request the court to start a conservatorship.
		- If the conservatorship is established, it will be for a period of one year.
	+ Do I have the right to object to the conservatorship?
		- Yes. You have a right to a jury trial on the issue of whether or not you are gravely disabled.
		- You have the right to have a public defender (or private attorney) assist you in preparing your defense.
		- You have a right to copies of all petitions.
		- You have a right to force the county to prove beyond a reasonable doubt that you need a conservator.
	+ What happens after trial?
		- If you win your trial, you must be released.
		- If you lose your trial you will have a conservator appointed to help you with decisions for one year.
		- The court will decide if the public guardian or a family member will serve as your conservator.
		- You will also be required to take medication if ordered by a doctor.
	+ For more information who should I call?

If you are being involuntarily detained and need more information please contact the Mental Health Advocacy Unit of the Public Defender’s Office directly at (877) 494-7788. If you are a family member and need more information please contact Public Guardian’s Office at (714) 567-7660, or the Family Advocate’s office at (714) 796-0265, or your local mental health association.