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**Expanding Lanterman-Petris-Short (LPS) and Probate Conservatorship Capacity
in Los Angeles County**

The California conservatorship system, made up of LPS and Probate sections, is one of the most important safeguards for protecting individuals incapable of managing their own affairs. Whereas LPS conservatorships are designated for individuals unable to care for themselves due to debilitating mental illness, probate conservatorships are designed for individuals unable to care for themselves due to physical health issues, cognitive impairment or elder abuse.

LPS Conservatorship

The Lanterman-Petris-Short (LPS) Act is a California statute, signed by Governor Ronald Reagan in 1967, that includes Sections 5000-5500 of the California Welfare and Institutions Code (WIC). The LPS Act established the foundations for the many facets of California’s system of involuntary treatment for people suffering from mental illness. Sections 5350-5372 of the California WIC, in Chapter 3 of the LPS Act, outline the process for mental health, or LPS, conservatorship.

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LPS conservatorship provides for the care of individuals who are “gravely disabled” due to mental illness. A typical conservatee is an individual in need of intensive treatment for a mental disorder, including medication, and/or care in a structured, restricted, or locked living environment, but who is unable to voluntarily accept these resources. The California Superior Court, the sole court authorized to grant such conservatorships, will establish an LPS conservatorship only if it finds, beyond a reasonable doubt, that the individual in question is “gravely disabled,” meaning that the individual cannot provide for his or her basic needs, such as food, clothing, and shelter, due to their mental health disorder.

In Los Angeles County, the process of establishing an LPS conservatorship begins when a person designated to write an LPS hold files an application with the Office of the Public Guardian (OPG) within the Los Angeles County Department of Mental Health (DMH). Only a doctor overseeing the treatment of a mentally ill individual at a designated psychiatric facility, County jail, or a designated court can submit such an application. Once an authorized party has submitted an application, an individual may be placed on a Temporary Conservatorship (T-CON), which remains in effect for 30 days, during which time the OPG can authorize involuntary treatment of the conservatee and investigate the need for a yearlong conservatorship. While a T-CON can be extended for a period of up to six months, the process in LA County nearly always ensures a hearing prior to the expiration of the temporary conservatorship. During the T-CON, a hearing is scheduled in the Los Angeles County Superior Court, and a judge or commissioner usually renders a judgment within 30 days. The court may appoint either the OPG, or a relative or other party who is willing

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and appropriate to serve, as the conservator, but the OPG still investigates all referrals and provides the court with recommendations in all cases.

Approximately 2700 individuals are currently on an LPS conservatorship in Los Angeles County. In 2016, the OPG received an average of 78 LPS conservatorship referrals monthly, 100% of which were accepted for investigation. 31% of all T-CONs in Los Angeles County did not end in an LPS conservatorship. An LPS conservatorship remains in effect for one year, at which time a new hearing occurs in the Superior Court if the conservatee continues to be gravely disabled.

LPS conservatorships are critical for protecting gravely disabled individuals from languishing homeless on the streets or in County jails or state prisons. The conservatorship system rightfully has many checks and balances to protect individuals with debilitating mental illness from being incorrectly or unnecessarily placed on conservatorship. That said, the consequences of not placing gravely disabled individuals on conservatorship when legally indicated can be dire in some cases given the life and death consequences of untreated mental illness.

Probate Conservatorship

Probate conservatorships are governed under California Probate Code sections 1800 et al. The intent of the law is to protect the rights of persons placed on conservatorship, provide for an assessment of the needs of such persons in order to determine the appropriateness and extent of conservatorship, provide for the health and psychosocial needs of the conservatee, provide community based services to the greatest extent possible, provide for periodic review of the conservatorship and ensure

that the conservatee's basic needs for physical health, food, clothing, and shelter are met.

Probate conservatorships are designed to meet the needs of older and/or otherwise dependent adults unable to provide for their physical health, food, clothing, and shelter or unable to substantially manage their finances or whose affairs are subject to undue influence without protection. Probate conservatorships are based on a court finding of a lack of capacity and, in contrast to the mental health conservatorship, are usually established for the lifetime of the individual.

In contrast to LPS conservatorships, not all requests for a Probate conservatorship involve OPG. Private individuals may petition the court for a Probate conservatorship, but in those cases where there is no family, or family is inappropriate to serve in that capacity, OPG fills a critical need in investigating and, when appropriate, petitioning the court to be appointed as conservator.

Approximately 800 individuals are on a Probate conservatorship with the OPG. In 2016 OPG received an average of 150 Probate conservatorship referrals per month. Only a small number of these referrals resulted in OPG being appointed as conservator, as many cases were resolved with family members being named conservator, or other suitable alternatives to conservatorship being identified and/or implemented. Increases in the older adult population and increased awareness of elder abuse will continue to increase the demand for Probate conservatorships.

Conservatorship Capacity Constraints

Despite job complexity, Deputy Public Conservator/Administrator positions within the OPG are designated as entry-level. The only Los Angeles County staff from which

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the OPG routinely recruits for these positions are Eligibility Workers and Clerical (ITC/STC). The OPG also receives applications from recent college graduates. Recruitment is not difficult for the OPG, as evidenced by the fact that 350 individuals recently submitted applications the day that the Deputy exam opened. The office does face very significant challenges in retaining new employees because trained Deputy Public Conservators/Administrators can transfer to higher paying and less demanding positions within the County. The process of equipping new staff to handle the complexities of a conservatorship case can take a year or longer. Yet the office often loses Deputies within the first year of hiring, sometimes within the first three months.

Caseloads for OPG Deputies continue to be problematic. Approximately eight years ago, the caseloads in the LPS unit were at least 110 per Deputy, but budget increases supported by DMH and the Board of Supervisors brought that number down to between fifty to seventy cases per Deputy. However, the aforementioned high levels of staff turnover have reversed the trend and caused caseloads to grow significantly in the recent past.

The Board of Supervisors has introduced multiple initiatives to reduce the incarceration of individuals suffering from mental illness, improve treatment options for these individuals, and assist those individuals currently or at-risk of experiencing homelessness. DMH and the County have an opportunity to re-examine the LPS and Probate conservatorship system and ensure that the highest levels of service are being provided to these clients so that lack of treatment and care does not result in homelessness and/or incarceration. This includes examining not only the OPG, but how

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clients are served before and after conservatorship to ensure promotion of consistent treatment, recovery, and community integration.

WE, THEREFORE, MOVE that the Board of Supervisors direct the Department of Mental Health, in collaboration with the Health Agency and Chief Executive Officer, to convene stakeholders including representatives of the Superior Court, mental health experts, consumers and consumer advocates and report back to the Board of Supervisors in 120 days with:

1. An evaluation of the current conservatorship process and means for improving it;
2. An evaluation of the current conservatorship process for minors and means for improving it;
3. A plan for how the conservatorship process can be improved to ensure that people who cannot care for themselves are referred to the Office of Public Guardian (OPG), thorough and comprehensive investigations are carried out, all available information is provided to the court in a timely matter, efficiency for conservatorship hearings is optimized, success rates for conservatorship hearings are increased, and quality comprehensive services are provided to individuals placed on conservatorship as well as those released by the court;
4. Recommendations for how to measure and improve outcomes for clients who need to be, or who are conserved, including how to support psychiatric hospital staff who refer clients to the OPG, families of OPG clients, Superior Court staff, and an evaluation of residential placement models and how they can be optimized and expanded to best serve conservatees;

5. Recommendations for a systemic approach to following clients who are either currently, or who have previously been, determined to be gravely disabled, including clients with a history of repeated 5150s and/or urgent care center/psychiatric emergency services and/or first responder/law enforcement engagements to ensure that high quality and consistent mental health treatment is provided throughout and following conservatorship;
6. An assessment of the current scope of work being carried out by frontline staff in the OPG, and specific recommendations for the ways in which care can be best provided to individuals who are conserved, including how clinical services can be further leveraged and organized to support conservatees;
7. An evaluation of the adequacy of existing staffing patterns, positions, classifications and salaries of frontline staff in the OPG to ensure that they are commensurate with their functions and levels of responsibility, with specific recommendations regarding optimal caseloads for staff and for improving the hiring and retention of staff who are trained and skilled at providing conservatorship services, especially those knowledgeable in specialties such as management of forensic status, working with correctional institutions, property or finance;
8. Recommendations on whether state legislation would be helpful to improve the conservatorship system; and
9. Provision of annual reports to the Board including the number of clients placed on Probate and LPS conservatorship with the OPG annually, the number of individuals referred for investigation for Probate and LPS conservatorships with

the OPG, OPG caseloads, frequency of OPG Deputy contact with conservatees, the number of OPG clients who exit conservatorship and the reasons for clients exiting conservatorship, the number of OPG clients who exit conservatorship and then return to conservatorship within a one year period, the number of OPG conserved clients waiting for a higher level of care, including locked facilities, lengths of wait time for higher levels of care for conserved clients, the number of OPG conserved clients in locked facilities, lengths of stay in locked facilities for OPG clients, the number of OPG clients who are receiving specialty mental health services, and any other indicators that will inform the Board about the effectiveness of the conservatorship process in the County.

S: MR/Expanding Lanterman-Petris-Short (LPS) and Probate Conservatorship Capacity in Los Angeles County

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